

United States  
Circuit Court of Appeals <sup>10</sup>  
For the Ninth Circuit.

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S. G. ARMSTRONG, F. R. CORNISH, H. HAKES,  
T. A. TRIMBLE, MARY E. TRIMBLE,  
HOMER TRIMBLE, HARRY TRIMBLE,  
CORA T. FAVILLE, F. F. FAVILLE and  
SCANDINAVIAN AMERICAN BANK OF  
SPOKANE, a Corporation,

Appellants,

vs.

UNION TRUST & SAVINGS BANK, a Corpora-  
tion, as Receiver for FIDELITY LUMBER  
COMPANY, a Corporation,

Appellee.

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**Transcript of Record.**

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Upon Appeal from the United States District Court for the  
Eastern District of Washington, Northern Division.

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Filed

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Circuit Court of Appeals

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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**Names and Addresses of Attorneys of Record.**

CHARLES P. LUND, Old National Bank Building,  
Spokane, Washington, and

FAVILLE & WHITNEY, Storm Lake, Iowa,  
Attorneys for Appellants,  
and

HAMBLEN & GILBERT, Paulsen Building, Spo-  
kane, Washington,  
Attorneys for Receiver and Appellee. [2\*]

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*In the District Court of the United States, for the  
Eastern District of Washington, Northern Divi-  
sion.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Order Appointing Permanent Receiver.**

This matter coming regularly on for hearing upon  
the application of counsel for the above-named  
plaintiff, to make permanent the appointment of the  
Union Trust & Savings Bank as receiver of the  
Fidelity Lumber Company, in the consolidated  
cause of Continental & Commercial Trust & Savings

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\*Page-number appearing at foot of page of original certified Transcript  
of Record.

Bank, a Corporation, et al., Trustees, Plaintiffs, vs. Fidelity Lumber Company, a Corporation, Defendant, and S. H. Bowman Lumber Company, a Corporation, Plaintiff, vs. Fidelity Lumber Company, a Corporation, Defendant; and it appearing to the Court that the above-named defendant has filed herein a confession of the bills of complaint in said causes; that the receiver heretofore appointed by this Court immediately upon its appointment took possession of the property and assets of said defendant, and ever since said time has maintained said possession; that no objection has been made to or filed against the permanent appointment of a receiver herein; now on motion of counsel;

It is ORDERED, ADJUDGED and DECREED, that the Union Trust & Savings Bank, a corporation, of Spokane, Washington, organized under the laws of the State of Washington relating to Trust Companies and authorized to act as receiver of corporations, be and it is hereby appointed permanent receiver of said Fidelity Lumber Company, defendant above named, with all the powers and duties of a receiver in chancery, and with full power and authority to take, hold [3] possession of and preserve all of the property and assets of every kind and description belonging to said Fidelity Lumber Company; to marshal the liens against said property; to ascertain all debts and obligations of said company; and to bring to sale in the due course of administration of said trust, all the property and assets of said defendant as may be ordered by the Court from time to time.



It is further ORDERED that all income and earnings from the mill and other property described in the trust deed set forth in the original bill of complaint herein shall be held by said receiver in a separate fund for the benefit of the trustees in said trust deed until the further order of the Court, and that in the event the plant of said defendant shall be operated by said receiver, then there shall be retained by said receiver out of moneys received from the sale of assets, over and above the amount of valid and existing liens against the same, such a sum as the Court may adjudge reasonable as compensation to the trustees under the trust deed above mentioned for the use of said plant.

It is further ORDERED that said receiver be and it is hereby fully authorized and empowered to demand, sue for, collect, receive and take into its possession, all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books and papers, choses in action, and property of every kind and description of said defendant corporation and wheresoever situated or located, and to institute and prosecute within this state, or elsewhere and in its name as receiver, or in the name of the defendant company, as it may be advised by counsel, all such suits for the recovery or protection of any estate, property, damages, or demands existing in favor of the said defendant company, and likewise to defend, compromise or settle all such suits instituted against it as receiver, and also to appear in and conduct, prosecute or defend any action or proceeding now pending or which may here-

after be brought in any court to which the defendant company is or shall be a party. [4]

It is further ORDERED that said receiver be and it is hereby authorized and directed as soon as practicable to cause to be prepared a schedule of all and singular the property, rights and assets which may come into its possession as such receiver, and to file same with the clerk of this Court, and said receiver is hereby directed to keep true and correct account of all income, earnings and revenue of said property held under its control as such receiver, and of the expenses of operating such property, and to make reports of its doings as receiver from time to time as the Court may direct.

The right is reserved to the parties hereto to apply to the Court for any further or other directions to the said receiver, and this Court reserves the full right and jurisdiction to make from time to time such further orders modifying, extending, limiting or in otherwise modifying or changing this order as to it at any time may seem best.

It is further ordered that said receiver having given a bond in the sum of \$25,000, that no further or other bond be required of it.

Done in open court this 7th day of June, A. D. 1915.

(Signed) FRANK H. RUDKIN,  
District Judge.

[Endorsements]: Order Appointing Permanent Receiver. Filed June 7, 1915. W. H. Hare, Clerk. By S. M. Russell, Deputy. [5]

*In the District Court of the United States, for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Receiver's Report of Claims Filed.**

Comes now the Union Trust & Savings Bank, the duly appointed, qualified and acting receiver of the Fidelity Lumber Company, a corporation, and submits the following report of all claims presented to it as receiver, and represents to the Court:

1. That on the 17th day of June, 1915, this Court made and entered an order directing your receiver to notify all creditors of the Fidelity Lumber Company to present their claims, duly verified, to your receiver within ninety (90) days from and after notice, and that pursuant to said order your receiver caused to be mailed to all creditors then known to your receiver at their last known address, a notice as more fully appears from the affidavit of mailing such notice, on file herein.

2. That there has been presented to your receiver, from time to time, claims duly verified, as set forth in Schedules "A," "B," "C" and "D,"

hereto attached and made a part of this report, and that your receiver has proceeded to carefully investigate and audit each of said claims for the purpose of determining whether or not the same should be allowed.

3. Schedule "A," hereto attached, contains a complete list of all preferred or lienable claims which have been filed with your receiver, and which have been allowed and paid. These represent claims for labor, logs, etc., involving current operations of the [6] Fidelity Lumber Company immediately prior to the receivership. Each of said claims was carefully investigated before payment, and in the judgment of your receiver it was essential to the integrity of the trust to pay such claims to avoid the filing of liens and the accumulation of costs.

4. Schedule "B," hereto attached, contains a statement of all claims filed and allowed in whole or in part, but not paid by the receiver.

5. Schedule "C," hereto attached, contains a statement of claims which are based upon preferred or common stock of the Fidelity Lumber Company, or preferred certificates of said company, so called, or growing out of the redemption of such stock or certificates, which claims have not been allowed by your receiver for the reason that your receiver and its solicitors have been unable to determine whether or not such claims are properly allowable. In some instances the claims of these creditors represent credits which were given to stockholders by the

Fidelity Lumber Company through the redemption, or attempted redemption of preferred stock, or preferred certificates. The question which the Court will be called upon to decide, in brief, is whether or not the holders of this stock, or of these preferred certificates, so called, are creditors or stockholders.

6. Schedule "D," hereto attached, contains a statement of the Bruce-Edgerton Lumber Company claims. Under this heading have been grouped the claims of F. A. Chamberlain, trustee for certain creditors of the Bruce-Edgerton Lumber Company for \$83,880.00; the claim of the Old National Bank for \$15,665.54; and the claim of the Bruce-Edgerton Lumber Company for \$20,597.77.

The claim of F. A. Chamberlain, as Trustee, covers notes of the Fidelity Lumber Company amounting to \$80,000.00, together with interest, payable to the Bruce-Edgerton Lumber Company and by it assigned to the present holder.

The claim of the Old National Bank for \$15,665.54 covers [7] three notes of the Bruce-Edgerton Lumber Company payable to the Fidelity Lumber Company and indorsed by the latter, and discounted at the Old National Bank.

Against the aggregate of \$120,143.31, here referred to, your receiver is prepared to allow \$75,782.01.

These claims are mutually involved to such an extent that your receiver is unable to determine how the credit allowed should be segregated to the respective claims, and therefore suggests that the par-

ties in interest mutually settle this matter or else establish their rights upon the hearing of this report.

7. In connection with the claims of the Old National Bank, your receiver calls attention to an agreement in writing dated October 17th, 1913, whereby the Bruce-Edgerton Lumber Company, O. H. Montzheimer, A. Montzheimer, and C. H. Stone, jointly and severally agreed that any indebtedness at any time due the Old National Bank shall have priority over any indebtedness due the signers of said agreement, and shall be paid first out of any assets of the Fidelity Lumber Company. It is understood by your receiver that F. A. Chamberlain, Trustee, as assignee of a portion of the indebtedness due the Bruce-Edgerton Lumber Company, contests the validity of this agreement, and your receiver believes that the question of the priority of the claims of the Old National Bank to payment as against the signers of said agreement, should be determined upon the hearing of this report.

WHEREFORE, your receiver prays as follows:

1. That the Court fix a day for hearing upon this report, and direct that a proper notice thereof be given to each creditor whose names appears in Schedules "B," "C" and "D."
2. That upon said hearing the Court approve the payment of all claims set forth in Schedule "A" and allow all claims set forth in Schedule "B" as allowed and approved by your receiver.

3. That all creditors referred to in Schedule "C" herein [8] be required to appear upon said hearing and show cause if any they have why their claims as filed with your receiver should be allowed either in whole or in part.

4. That the creditors referred to in Schedule "D" hereto attached be required to appear upon said hearing and show cause, if any they have, why their claims in the aggregate should be allowed for more than the amount allowed by the receiver, and further what amount each of said creditors is entitled to.

5. That the parties to the agreement referred to in this petition, granting a priority to the Old National Bank, be required to appear upon said hearing and show cause if any they have why said agreement should not be recognized and enforced.

6. That any creditors named in Schedules "B," "C" and "D," hereto attached, be required to file any objection or exceptions he may have to the foregoing report, or any part thereof, at least ten (10) days prior to said hearing.

(Signed) HAMBLEN & GILBERT,

Solicitors for Receiver.

State of Washington,  
County of Spokane,—ss.

W. J. Kommers, being first duly sworn, on oath deposes and says: That he is an officer of the Union Trust & Savings Bank, to wit, its vice-president, and makes this verification in its behalf; that he has read the foregoing petition, knows the contents thereof

and that the same is true as he verily believes.

(Signed) W. J. KOMMERS.

Subscribed and sworn to before me this 4th day of March, 1916.

[Seal] (Signed) W. S. GILBERT,  
Notary Public, Residing at Spokane, Spokane  
County, Washington. [9]

**Schedule "A."**

**LIST OF PREFERRED OR LIENABLE CLAIMS  
FILED WITH RECEIVER, ALLOWED AND  
PAID.**

Names, Addresses, Amounts Claimed and  
Amounts Allowed and Paid omitted.

**Schedule "B."**

**STATEMENT OF CLAIMS FILED AND  
ALLOWED IN WHOLE OR IN PART (BUT  
NOT PAID) BY RECEIVER.**

Names, Addresses, Amounts Claimed and  
Amounts Allowed omitted. [10]



Schedule "C."

STATEMENT OF CLAIMS BASED UPON PREFERRED OR COMMON STOCK OR PREFERRED CERTIFICATES, SO-CALLED, OR GOING OUT OF THE REDEMPTION OF SUCH STOCK OR CERTIFICATES AND NOT ALLOWED BY RECEIVER.

Name.	Address.	Amount Claimed.	
Armstrong, S. G.	Cedar Rapids, Ia.	17133.00	
Bose, Dora M.	Racine, Wis.	350.23	
Bose, H. W.	" "	350.23	
Boyer, J. F.	Los Angeles, Cal.	2320.29	
Bruce, W. J.	Minneapolis, Minn.	1467.18	1467.18
Carter, C. W.	Pasadena, Cal.	2837.86	
Carter, Mrs. Merriam		9524.14	
Cornish, F. R.	Cedar Rapids, Ia. )		
	)	26349.32	
Cornish, Susan C.	" " " )		
Faville, Cora T.	Storm Lake, Ia.	2666.46	
Faville, F. F.	" " "	7912.50	
Hakes, M.	Laurens, Iowa	25667.41	
Hillock, Grace E.	Webster City, Ia.	548.70	
Jacobson, J. C.	Seattle, Wash.	937.17	
Leighton, Mary E.	Pasadena, Cal.	496.12	
Long, S. K.	Newport, Wash,	197.90	
McDonald, W. W.	Medford, Ore.	1145.33	
McDonald & Son, W. W.	" "	( 1288.50	
		( 5522.22	5455.55
Montzheimer, A.	Joliet, Ill.	2791.53	
Montzheimer, O. H.	Primghar, Iowa	95.80	95.80
Montzheimer, Ruby F.	Newport, Wash.	583.71	
Nelson, Josephine Horton,	Garfield, Wash.	233.48	
Richardson, Hattie E.	Webster City, Ia.	594.30	
Scandinavian American Bank	Spokane, Wash.	5000.00	
Smith, N. A.	Minneapolis, Minn.	1222.40	
Stone, C. H.	Clayton, Ga.	2323.30	2300.70
Torreson, Geo.	Newport, Wash.	2801.80	
Temple, Anna S.	Spokane, Wash.	1088.88	
Willis, A. G.	" "	735.45	
Willis, B. L.	" "	1399.35	

**Schedule "D."****STATEMENT OF CLAIMS OF BRUCE-EDGERTON LUMBER COMPANY, ET AL.**

Name.	Address.	Amount Claimed.	Amount Allowed.
Bruce-Edgerton Lbr. Co.	Minneapolis, Minn.	( 20597.77	
Chamberlain, F. A., Trustee for the creditors of the Bruce-Edgerton Lbr. Co.	" "	( 83880.00	75782.01
Old National Bank	Spokane, Wash.	15665.54	

[Endorsements]: Receiver's Report of Claims Filed. Filed March 4, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [12]

*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

**CONTINENTAL & COMMERCIAL TRUST & SAVINGS BANK, a Corporation, and RALPH VAN VECHTEN, Trustees,**  
Plaintiffs,

vs.

**FIDELITY LUMBER COMPANY, a Corporation,**  
Defendant.

**Objections of S. G. Armstrong to Report of Receiver.**

Comes now S. G. Armstrong, a claimant in the above-entitled matter, and in pursuance to an order of Court heretofore entered in said matter, hereby makes the following objections to the report of the receiver and to the classification of the claims of this claimant as shown in said report:

First: This claimant respectfully shows the Court that his claim for one note of \$156.00 with interest at 6% from December 30th, 1911, is a *bona fide*, valid and genuine indebtedness of the said company of the same kind and character as the claims listed, filed and approved by the said receiver under Schedule "B," and is for money actually due from the said Fidelity Lumber Company to this claimant.

Second: This claimant and objector further shows to the Court that the said item in his claim of \$2,500.00 is for a certain note dated October 30th, 1914, is for money actually loaned by this claimant to the said Fidelity Lumber Company, and that said note bears interest at 8% per annum and that no interest has been paid thereon, and your objector shows to the Court that the said obligation is of the same kind and character as the claims filed and allowed by the said receiver under Schedule "B" of the said report.

Third: This claimant further shows to the Court that [13] his claim for six (6) shares of preferred stock under certificate #37 is for preferred stock, which the said Fidelity Lumber Company, by special agreement attached to the said certificate, undertook and agreed to redeem on the 1st day of December, 1913, and that the five (5) shares of preferred stock represented by certificate #38 in said claim was also stock which the said Fidelity Lumber Company by special agreement also undertook and agreed to redeem on the 1st day of Decem-

ber, 1913, and as to the said stock represented by the two certificates #37 and 38, this claimant asks that the same be established and allowed by the Court on the same basis and in the same manner as other stock of the said Fidelity Lumber Company of the same issue and bearing the same endorsement.

Fourth. Another claim of this claimant is for twenty-six (26) shares of the preferred stock of the said Fidelity Lumber Company dated the 30th day of December, 1911, which this claimant asks may be established and allowed by the Court on the same basis as other claims for preferred stock. This claimant also shows to the Court that as part of his claim is certificate #17 for one hundred (100) shares of the common stock of the said Fidelity Lumber Company dated November 20th, 1905, and as to said item this claimant asks that the same may be established and allowed on the same basis as other similar shares of the common stock of the said company.

WHEREFORE this claimant respectfully prays the Court that an order may be entered directing that the said two claims of this claimant, represented by the said notes of the said Fidelity Lumber Company, and each of them, may be established by the Court as claims of the same kind and character as those reported by the receiver in Schedule "B," and that the claims of this claimant for preferred shares of stock issued under special agreement for redemption thereof may be established by the Court as claims against the said company on the same basis and of the same character as other claims [14] of

the said issue and supported by the said contract of the said Fidelity Lumber Company agreeing to redeem the same; and that the claims of this claimant for preferred stock and for common stock may all be established by the Court on the same basis as other similar stock of the said company, and that the Court may make all such other and further orders in said matter as may be proper and equitable and as may fully protect the rights of this claimant.

(Signed) S. G. ARMSTRONG,  
By F. F. FAVILLE,  
Attorney for Claimant.

[Endorsements]: Objections of S. G. Armstrong to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington. May 1, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [15]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Objections of M. Hakes to Report of Receiver.**  
Comes now the claimant, M. Hakes, in the above-

entitled matter, and in pursuance of the order of the Court heretofore entered in said matter makes the following objections to the report of the said receiver and to the classification of the claims of this claimant as shown in said report for the following reasons and upon the following grounds, to wit:

First. This claimant shows to the Court that items II and III of the proof of claim filed by this claimant with the receiver are not only based on seventeen shares of the preferred stock in the defendant company, but upon the special written contract of said defendant company attached to and made a part of said claim, by the terms of which said written contract the said company obligated and bound itself to redeem said stock on the first day of December, 1913, by paying the par value of the same to the holder, together with all unpaid accrued interest, and that the said items of the said claim of this claimant are based upon the said written contract binding the said defendant company to pay the par value of the said stock on the said 1st day of December, 1913.

This claimant respectfully shows to the Court that the said shares of stock and said written contract constitute the obligation of the said company to pay the amount of the said stock, with interest thereon, the same as any other written obligation of [16] the company as for money loaned to the said defendant company, and that this claimant is entitled to have the said items of this said claim established as a claim under Schedule "B" instead of under Schedule "C."

Second. This claimant respectfully shows to the Court that item IV of the claim filed by this claimant is for a note executed by the said defendant company for a *bona fide* indebtedness actually due from the said defendant company to this claimant for money actually loaned by this claimant to the said defendant company, and that said note and interest thereon are in no way a part of the claims scheduled under Schedule "C," but the said item of said claim is of the same character as the obligations of the defendant company set forth in Schedule "B" of said receiver's report and that the same should be classified and allowed as such.

Third. This claimant respectfully shows to the Court that item V of the claim filed by this claimant is for a note executed by the said defendant company for a *bona fide* indebtedness actually due from the said defendant company to this claimant, and that said note and interest thereon are in no way a part of the claims scheduled under Schedule "C," but the said item of the said claim is of the same character as the obligations of the defendant company set forth in Schedule "B" of said receiver's report and that the same should be classified and allowed as such.

Fourth. That the said item VI of the claim of this claimant is for interest on \$1,700.00 from April 24th, 1914, to October 24th, 1914, at 8%. The said \$1,700.00 having been money actually loaned by said claimant to said defendant company and the said interest having accrued thereon under and by virtue of the terms of the said loan which were evidenced by the promissory note, and which said note was re-

newed as shown in item IV of said claim, but the said interest was never paid. [17]

Fifth. As to item I of the claim of this claimant he respectfully shows to the Court that the terms of the contract between the defendant company and this claimant are as shown in the certificates of stock attached to said claim, and that said certificates of stock were issued in pursuance of a resolution of the defendant company providing that "the company shall guarantee a payment of 7% per annum on the said preferred stock which interest shall be payable semi-annually on the 1st day of January and July of each year." That by the terms of the said resolution and of the said certificates of stock issued in pursuance thereof the said certificates represent a valid and binding obligation and guaranty on the part of the said defendant company to pay interest on the amounts of the face of the said certificates at 7% per annum, semi-annually, and this claimant is entitled to have the said interest so accrued and also the amount of the face of the said certificates of stock established as a claim against the said company under Schedule "B," and on the same basis and footing as the claims listed in said schedule.

WHEREFORE this claimant prays the Court that an order will be entered requiring the receiver to list and classify the said filed claims of this claimant and each of them or such of them as to the Court, upon showing, may seem just, legal and proper, as valid and subsisting claims against the said company and as of the same kind and character as the claims reported and classified by the receiver under Sched-



ule "B" in said report, and that the Court may make all such other and further orders in regard thereto as many be proper in the premises.

(Signed) M. HAKES.

By F. F. FAVILLE,

His Attorney.

[Endorsements]: Objections of M. Hakes to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington. April 7, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [18]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Objections of T. A. Trimble to Report of Receiver.**

Comes now T. A. Trimble, a claimant in the above-entitled matter, and in pursuance to an order of Court heretofore entered in said matter, hereby makes the following objections to the report of the receiver and to the classification of the claims of this claimant as shown in said report:

First: This claimant shows to the Court that his

claim for five (5) shares of preferred stock under certificate #34 is for preferred stock which the said Fidelity Lumber Company, by special agreement attached to said certificate undertook and agreed to redeem on the 1st day of December, 1913, and this claimant asks that the same be established and allowed by the Court on the same basis and in the same manner as other stock of the said Fidelity Lumber Company of the same issue and bearing the same endorsement.

Second: This claimant shows to the Court that his claim for ten (10) shares of the preferred stock under certificate #128 is for preferred stock which the said Fidelity Lumber Company by special agreement attached to said certificate undertook and agreed to redeem on the 1st day of January, 1916, and this claimant asks that the same be established and allowed by the Court on the same basis and in the same manner as other stock of the said Fidelity Lumber Company of the same issue and bearing the same endorsement.

Third: This claimant further shows the Court that his [19] claim for eleven (11) shares of preferred stock under certificate #190 is for preferred stock which the said Fidelity Lumber Company by special agreement attached to said certificate undertook and agreed to redeem on the 1st day of December, 1916, and this claimant asks that the same be established and allowed by the Court on the same basis and in the same manner as other stock of the said Fidelity Lumber Company of the same issue and bearing the same indorsement.

WHEREFORE this claimant respectfully prays the Court that the claims of this claimant for preferred shares of stock issued under special agreement for redemption thereof may be established by the Court as claims against the said company on the same basis and of the same character as other claims of the said issue and supported by the said contract of the said Fidelity Lumber Company agreeing to redeem the same, and that the Court may make all such other and further orders in said matter as may be proper and equitable and as may fully protect the rights of this claimant.

(Signed) FAVILLE & WHITNEY,  
Attorneys for Claimant.

**SPECIAL AGREEMENT.**

For value received the Fidelity Lumber Company, a corporation of the State of Washington, hereby agrees with T. A. Trimble, the owner thereof to redeem on December 1st, 1916, at par and accrued interest, Preferred Certificate of Stock #190 for eleven (11) shares of the Preferred Stock of the Fidelity Lumber Company.

**FIDELITY LUMBER COMPANY,**

By B. L. WILLIS, Pres.

Dated at Newport, Washington, June 22d, 1912.

Spokane, Washington.

By this SPECIAL AGREEMENT, made this first day of July, 1909, the Fidelity Lumber Company of Spokane, Washington, does hereby agree to redeem on the first day of December, 1913, Preferred Certificate of Stock dated July 1st, 1909, being certificate No. 34 for 5 shares, by paying the Par Value of same

to holder thereof, together with all unpaid accrued interest; the surrender of said certificate with this special contract to be made to the company at the time payment is received. But the holder of said certificate may at his option retain the same and receive all benefits, [20] until maturity, by surrendering this special contract to the company for cancellation.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS, Pres.

AGREEMENT.

Newport, Washington, March 23d, 1911.

By this special agreement the Fidelity Lumber Company, a corporation in the State of Washington, does hereby agree to redeem on the first day of January, 1916, Preferred Certificate of Stock, dated January 1st, 1911, being certificate #128 for 10 shares, by paying the par value of the same to the holder, together with all unpaid accrued interest. The surrender of said certificate with this special contract to be made to the Fidelity Lumber Company at the time payment *if* received.

The holder of this certificate may at his option return the same and receive all benefits until maturity by surrendering this special contract for cancellation.

[Seal] FIDELITY LUMBER COMPANY,

By B. L. WILLIS, Pres.

[Endorsements]: Objections of T. A. Trimble to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington. June 10, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [21]

*In the District Court of the United States for  
the Eastern District of Washington, Northern  
Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Objections of Mary A. Trimble to Report of  
Receiver.**

Comes now Mary A. Trimble, a claimant in the above-entitled matter, and in pursuance to an order of Court heretofore entered in said matter, hereby makes the following objections to the report of the receiver:

First: This claimant respectfully shows to the Court that her claim for four (4) shares of preferred stock under certificate #118 is for preferred stock which the said Fidelity Lumber Company by special agreement attached to the said certificate undertook and agreed to redeem on the 1st day of December, 1913, and that the seven (7) shares of preferred stock represented by certificate #36 in said claim is also stock which the said Fidelity Lumber Company by special agreement also undertook and agreed to redeem on the 1st day of December, 1913, and as to the said stock represented by certifi-

cates #36 and #118 this claimant asks that the same be established and allowed by the Court on the same basis and in the same manner as other stock of the said Fidelity Lumber Company of the same issue and bearing the same endorsement.

Second: This claimant further shows to the Court that her claim for ten (10) shares of preferred stock under certificate #129 is for preferred stock which the said Fidelity Lumber Company by special agreement attached to said certificate undertook and agreed to redeem on the 1st day of January, 1916, and that the ten (10) [22] shares of preferred stock represented by certificate #130 in said claim is also stock which the said Fidelity Lumber Company by special agreement also undertook and agreed to redeem on the 1st day of January, 1916, and that the ten (10) shares of preferred stock represented by certificate #131 in said claim is also stock which the said Fidelity Lumber Company by special agreement also undertook and agreed to redeem on the 1st day of January, 1916, and that the ten (10) shares of preferred stock represented by certificate #132 in said claim is also stock which the said Fidelity Lumber Company by special agreement also undertook and agreed to redeem on the 1st day of January, 1916, and as to the said stock represented by the four certificates #129, 130, 131 and 132, by this claimant asks that the same be established and allowed by the Court in the same manner and on the same basis as other stock of the said Fidelity Lumber Company of the said issue and bearing the same endorsement.

Third: This claimant further shows the Court

that her claim for one hundred and eighteen (118) shares of preferred stock under certificate #158 is for preferred stock which the said Fidelity Lumber Company, by special agreement attached to the said certificate, undertook and agreed to redeem on the 1st day of December, 1916, and this claim asks that the same be established and allowed by the Court on the same basis and in the same manner as other stock of the said Fidelity Lumber Company of the same issue and bearing the same indorsement.

WHEREFORE this claimant respectfully prays the Court that the claims of this claimant for preferred shares of stock issued under special agreement for redemption thereof may be established by the Court as claims against the said company on the same basis and of the same character as other claims of the said issue and supported by the said contract of the said Fidelity Lumber Company agreeing to redeem the same, and that the Court may make all such other and further orders in said matter as may be proper and [23] equitable and as may *full* protect the rights of this claimant.

(Signed) FAVILLE & WHITNEY,  
Attorneys for Claimant.

#### AGREEMENT.

Newport, Washington, March 23, 1911.

By this special agreement the Fidelity Lumber Company, a corporation in the State of Washington, does hereby agree to redeem on the first day of January, 1916, Preferred Certificate of Stock dated January 1st, 1911, being Certificate No. 131 for 10 shares, by paying the par value of the same to the

holder, together with all unpaid accrued interest. The surrender of said certificate with this special contract to be made to the Fidelity Lumber Company at the time payment is received.

The holder of this certificate may at her option return the same and receive all benefits until maturity by surrendering this special contract for cancellation.

[Seal] FIDELITY LUMBER COMPANY,  
By B. L. WILLIS, Pres.

AGREEMENT.

Newport, Washington, March 23, 1911.

By this special agreement the Fidelity Lumber Company, a corporation in the State of Washington, does hereby agree to redeem on the first day of January, 1916, Preferred Certificate of Stock, dated January 1st, 1911, being Certificate No. 132 for 10 shares, by paying the par value of the same to the holder, together with all unpaid accrued interest. The surrender of said Certificate with this special contract to be made to the Fidelity Lumber Company at the time payment is received.

The holder of this Certificate may at her option return the same and receive all benefits until maturity by surrendering this special contract for cancellation.

[Seal] FIDELITY LUMBER COMPANY,  
By B. L. WILLIS, Pres.

AGREEMENT.

Newport, Washington, March 23, 1911.

By this special agreement the Fidelity Lumber



Company, a corporation in the State of Washington, does hereby agree to redeem on the first day of January, 1916, Preferred Certificate of Stock, dated January 1st, 1911, being Certificate No. 129, for 10 shares, [24] by paying the par value of the same to the holder, together with all unpaid accrued interest. The surrender of said certificate with this special contract to be made to the Fidelity Lumber Company at the time payment is received.

The holder of this certificate may at her option return the same and receive all benefits until maturity by surrendering this special contract for cancellation.

[Seal] FIDELITY LUMBER COMPANY,

By B. L. WILLIS, Pres.

#### AGREEMENT.

Newport, Washington, March 23d, 1911.

By this special agreement the Fidelity Lumber Company, a corporation in the State of Washington, does hereby agree to redeem on the first day of January, 1916, Preferred Certificate of Stock, dated January 1st, 1911, being Certificate No. 130, for 10 shares, by paying the par value of the same to the holder, together with all unpaid accrued interest. The surrender of said Certificate with this special contract to be made to the Fidelity Lumber Company at the time payment is received.

The holder of this Certificate may at her option return the same and receive all benefits until matur-

ity by surrendering this special contract for cancellation.

[Seal] FIDELITY LUMBER COMPANY,  
By B. L. WILLIS, Pres.

**SPECIAL AGREEMENT.**

For value received the Fidelity Lumber Company, a corporation of the State of Washington, hereby agrees with Mary A. Trimble the owner thereof to redeem on December 1st, 1916, at par and accrued interest, Preferred Certificate of Stock #158 for one hundred and eighteen (118) shares of the Preferred Stock of the Fidelity Lumber Company.

FIDELITY LUMBER COMPANY,  
By B. L. WILLIS, Pres.

Dated at Newport, Washington, November 18th, 1911.

Spokane, Washington.

By this SPECIAL AGREEMENT made this first day of July, 1909, the Fidelity Lumber Company of Spokane, Washington, does hereby agree to redeem on the first day of December, 1913, Preferred Certificate of Stock dated July 1st, 1909, being certificate #36 for 7 shares, by payint the par value of same to the holder together with all unpaid accrued interest; the surrender of said certificate with this special contract to be made to the company at the time payment is received. But the holder of said certificate may at her option retain the same and receive all benefits, until maturity, by [25] sur-

rendering this special contract to the company for cancellation.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS, President.

Spokane, Washington.

By this SPECIAL AGREEMENT, made this 24th day of January, A. D. 1910, the Fidelity Lumber Company of Spokane, Washington, does agree to redeem on the first day of December, 1913, preferred certificate of stock dated January 24th, 1910, being Certificate No. 118, for four shares, by paying the par value of same to holder, together with all unpaid accrued interest; the surrender of said certificate with this special contract to be made to the company at the time payment is received. But the holder of said certificate may at her option retain the same and receive all benefits, until maturity, by surrendering this special contract to the Company for cancellation.

FIDELITY LUMBER COMPANY,

By A. J. WILSON, Secretary.

[Endorsements]: Objections of Mary A. Trimble to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington. June 10, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [26]

*In the District Court of the United States for  
the Eastern District of Washington, Northern  
Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Objections of Homer and Harry Trimble to Report  
of Receiver.**

Come now the claimants Homer and Harry Trimble in the above-entitled matter and in pursuance of the order of the Court heretofore entered in said matter make the following objections to the report of the said receiver for the following reasons and upon the following grounds, to wit:

First: These claimants show to the Court that their claim is for two shares of the preferred stock of the said Fidelity Lumber Company dated the 17th day of November, 1911, numbered 154 and 155, which these claimants ask may be established and allowed by the Court on the same basis as other claims for preferred stock.

WHEREFORE these claimants respectfully pray the Court that the claim of these claimants for preferred shares of stock may be established by the

Court on the same basis as other similar stock of the said company, and that the Court may make all such other and further orders in said matter as may be proper and equitable and as may fully protect the rights of these claimants.

(Signed) FAVILLE & WHITNEY,  
Attorneys for Claimants.

[Endorsements]: Objections of Homer and Harry Trimble to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington, June 10, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [27]

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*In the District Court of the United States for  
the Eastern District of Washington, Northern  
Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Objections of Cora T. Faville to Report of Receiver.**

Comes now the claimant, Cora T Faville, in the above-entitled action, and in pursuance of the order of the Court heretofore entered in said matter makes the following objections to the report of the said receiver and to the classification of the claims of

this claimant as shown in said report for the following reasons and upon the following grounds, to wit:

First: This claimant shows to the Court that item II of the proof of claim filed by this claimant with the receiver is not only based on five shares of the preferred stock in the defendant company, but upon the special written contract of said defendant company attached to and made a part of said claim, by the terms of which said written contract the said company obligated and bound itself to redeem said stock on the 1st day of December, 1913, by paying the par value of the same to the holder, together with all unpaid accrued interest and that the said item of the said claim of this claimant is based upon the said written contract binding the said defendant company to pay the par value of the said stock on the said 1st day of December, 1913, and upon the written demand of this claimant made on the said company on the said 1st day of December, 1913, that the said contract should be performed by the said defendant company. [28]

This claimant respectfully shows to the Court that the said shares of stock and said written contract constitute the obligation of the said company to pay the amount of the said stock with interest thereon the same as any other written obligation of the company as for money loaned to the said defendant company, and that this claimant is entitled to have the said item of this said claim established as a claim under Schedule "B" instead of under Schedule "C."

Second: This claimant respectfully shows to the Court that item III of the claim filed by this claimant is for a note executed by the said defendant company for a *bona fide* indebtedness actually due from the said defendant company to this claimant and that said note and interest thereon are in no way a part of the claims scheduled under Schedule "C," but the said item of said claim is of the same character as the obligations of the defendant company set forth in Schedule "B" of said receiver's report and that the same should be classified and allowed as such.

Third: As to item I of the claim of this claimant, she respectfully shows to Court that the terms of the contract between the defendant company and this claimant are as shown in the certificates of stock attached to said claim, and that said certificates were issued in pursuance of a resolution of the defendant company providing that "the company shall guarantee a payment of 7% per annum on the said preferred stock, which interest shall be payable semi-annually on the 1st day of January and July each year." That by the terms of the said resolution and of the said certificates of stock issued in pursuance thereof the said certificates represent a valid and binding obligation and guaranty on the party of the said defendant company to pay interest on the amounts of the face of the said certificates at 7% per annum, semi-annually, and this claimant is entitled to have the said interest so accrued and also the amount of the face of the said certificates

of stock established as a claim against the said company under Schedule "B" and on the same basis [29] and footing as the claims listed in said schedule.

WHEREFORE this claimant prays the Court that an order will be entered requiring the receiver to list and classify the said filed claims of this claimant and each of them or such of them as to the Court, upon showing, may seem just, legal and proper, as valid and subsisting claims against the said company and as of the same kind and character as the claims reported and classified by the receiver under Schedule "B" in said report, and that the Court may make such other and further orders in regard thereto as may be proper in the premises.

(Signed) CORA T. FAVILLE,

Claimant.

[Endorsements]: Objections of Cora T. Faville to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington. April 17, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [30]



*In the District Court of the United States for  
the Eastern District of Washington, Northern  
Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Objections of F. F. Faville to Report of Receiver.**

Comes now the claimant F. F. Faville in the above-entitled matter and in pursuance of the order of the Court heretofore entered in said matter makes the following objections to the report of the said receiver and to the classification of the claims of this claimant as shown in said report, for the following reasons and upon the following grounds, to wit:

First. This claimant shows to the Court that item II of the proof of claim filed by this claimant with the receiver is not only based on five shares of the preferred stock in the defendant company but upon the special written contract of said defendant company attached to and made a part of said claim, by the terms of which said written contract the said company obligated and bound itself to redeem said stock on the 1st day of December, 1913, by paying the par value of the same to the holder,

together with all unpaid accrued interest and that the said item of the said claim of this claimant is based upon the said written contract binding the said defendant company to pay the par value of the said stock on the said 1st day of December, 1913, and upon the written demand of this claimant made on the said company on the said 1st day of December, 1913, that the said contract should be performed by the said defendant company. [31]

This claimant respectfully shows to the Court that the said shares of stock and said written contract constitute the obligation of the said company to pay the amount of the said stock with interest thereon the same as any other written obligation of the company as for money loaned to the said defendant company, and that this claimant is entitled to have the said item of this said claim established as a claim under Schedule "B" instead of under Schedule "C."

Second. This claimant respectfully shows to the Court that Item III of the claim filed by this claimant is for a note executed by the said defendant company for a *bona fide* indebtedness actually due from the said defendant company to this claimant and that said note and interest thereon are in no way a part of the claims scheduled under Schedule "C," but the said item of said claim is of the same character as the obligations of the defendant company set forth in Schedule "B" of said receiver's report and that the same should be classified and allowed as such.

Third: As to item I of the claim of this claimant

he respectfully shows to the Court that the terms of the contract between the defendant company and this claimant are as shown in the certificates of stock attached to said claim, and that said certificates of stock were issued in pursuance of a resolution of the defendant company providing that "the company shall guarantee a payment of 7% per annum on the said preferred stock, which interest shall be payable semi-annually on the 1st day of January and July of each year." That by the terms of the said resolution and of the said certificates of stock issued in pursuance thereof, the said certificates represent a valid and binding obligation and guaranty on the part of the said defendant company to pay interest on the amount of the face of the said certificates at 7% per annum, semi-annually, and this claimant is entitled to have the said interest so accrued and also the amount of the face of the said certificates of [32] stock established as a claim against the said company under Schedule "B" and on the same basis and footing as the claims listed in said schedule.

WHEREFORE this claimant prays the Court that an order will be entered requiring the receiver to list and classify the said filed claims of this claimant and each of them or such of them as to the Court upon showing may seem just, legal and proper, as valid and subsisting claims against the said company and as of the same kind and character as the claims reported and classified by the receiver under Schedule "B" in said report, and that the Court

may make all such other and further orders in regard thereto as may be proper in the premises.

(Signed) F. F. FAVILLE,

Claimant.

[Endorsements]: Objections of F. F. Faville to Report of Receiver. Filed in the U. S. District Court for the Eastern District of Washington. April 17, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [33]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST & SAVINGS BANK, a Corporation, and RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Statement of Facts.**

Be it remembered that heretofore, to wit, on the 8th day of May, A. D. 1916, this cause came on for hearing before the Honorable FRANK H. RUDKIN, Judge of said court, presiding.

Present: W. S. Gilbert, on behalf of the receiver. Messrs. John E. Orr, J. B. Campbell, F. F. Faville, C. P. Lund and D. W. Hurn on behalf of certain creditors.

And thereupon the following proceedings were had, to wit:

Mr. GILBERT.—I think there ought to be no objection to my stating the facts that have been agreed upon in this case.

Mr. FAVILLE.—No.

Mr. GILBERT.—This company, your Honor, was incorporated under the laws of this State in 1904. The original capital was \$100,000, of which \$50,000 was to be preferred, at the option of the company.

On February 3d, 1906, the stockholders at a meeting passed a resolution increasing the capital to \$400,000, of which \$100,000 was preferred, with optional redemption of that stock within five years, and a forced, or compulsory retirement within ten years.

On January 8th, 1907, a resolution of the stockholders was passed approving the action of the board in not issuing 1,000 shares of preferred stock, as authorized by the resolution of February 3d, 1906, and approved an increase of the capital to [34] \$500,000. No mention is made of any portion of this being preferred stock.

On November 15th, 1907, a resolution of the board of trustees authorizing the issue of \$250,000 of preferred certificates of indebtedness was passed. These certificates were to bear interest at 7% per annum, payable semi-annually, to run for six years, expressly stipulating that the holders thereof should not be stockholders, but should be creditors. I might say in that connection that these certificates of indebtedness, so called, also provided that the

company should have the option of exchanging for these certificates of indebtedness preferred stock of the company, with like terms of payment, and like conditions.

On November 25th, 1907, a resolution of the stockholders was enacted to the same effect as the resolution of the board which I have just read, with the further provision that the company reserved the right in the certificates to issue in lieu thereof "preferred stock of said corporation of equal denominations and containing like terms and conditions of payment."

On January 25th, 1909, a resolution of the stockholders was passed increasing the capital to \$1,000,000, of which 2,000 shares, or \$200,000, were to be preferred. In that resolution the company reserves the right to redeem this preferred stock after five years and before ten years from the date thereof by paying the holders the principal and accrued interest, and a premium of five per cent; also reserves the right to retire the preferred stock after ten years by paying par value and accrued interest. It also provides that "said preferred stock shall be issued in such manner that the holder thereof shall not be entitled to vote the same, unless the company has been delinquent in the payment of interest thereon for a period of one year, and in such event such owner shall be entitled to participate in the conduct of the affairs of the company in the same manner as the owner of common stock therein."

The preferred stock issued follows the form of the resolution, except that there is nothing printed thereon in regard to the right to vote or participate in the affairs of the company.

Mr. FAVILLE.—Mr. Gilbert, did that provision contain a guaranty?

Mr. GILBERT.—Yes; the resolution referred to also provides for the payment of interest upon this stock at the rate of seven per cent per annum, payable annually. Is that what you refer to?

Mr. FAVILLE.—Yes; semi-annually.

Mr. GILBERT.—Semi-annually.

Now, your Honor, I think, has gathered from my statement that in the first place there were issued these preferred certificates of indebtedness, which was nothing more nor less than a borrowing scheme to the extent of \$250,000.

Now, these preferred certificates of indebtedness were either paid for in cash, or were redeemed by issuing this preferred stock which is now made the basis of a claim by these creditors. Now, the preferred stock certificate upon which these claims are based reads as follows:

“No. 250. \_\_\_\_\_ Shares.

Incorporated Under the Laws of the State of  
Washington.

Preferred Certificate of Stock  
of

Fidelity Lumber Co.

Capital Stock \$1,000,000.

This certifies that \_\_\_\_\_ is the owner of \_\_\_\_\_ shares of the preferred stock of the Fidelity Lum-

ber Co., of the par value of one hundred dollars per share, transferable only on the books of the corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate of stock is entitled to [36] interest on the par value hereof at the rate of seven per cent per annum, payable semi-annually on the first days of July and January of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying the owner hereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

IN WITNESS WHEREOF, the said corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the corporation, at Spokane, Washington, this — day of ———, A. D. 19——.”

Now, a great many of these certificates of preferred stock, your Honor, at the time of issuance had riders attached to them, which, though they varied



somewhat in form and execution, are all practically in substance the same. For instance, I will read the one which was attached to certificate No. 3:

“For value received the Fidelity Lumber Co. hereby agrees with Francis G. Bishop, owner of preferred certificate of stock No. 3, for three shares of the preferred of the Fidelity Lumber Co., to redeem said stock at par, with accrued interest, at the end of five years from the date of said certificate, upon written request of the holder or his assigns. Fidelity Lumber Co., by A. J. Wilson, Secretary. Dated at Spokane, Washington, April 30, 1909.”

As I say, the form varies somewhat, but the effect is the same, that they will redeem the issued certificate at a certain [37] time.

I think that probably covers the facts, and the question arises whether in that situation the holder of one of these certificates of preferred stock can properly, under these circumstances, claim to be a creditor, or whether he is a stockholder.

Mr. HURN.—Mr. Gilbert, these certificates you spoke of as certificates of credit, there was \$250,000 authorized, but how much was actually issued?

Mr. GILBERT.—686 shares. That amounts to \$68,600.

As to the C. W. Carter note, amounting to \$2,500 and interest, the only point that we cannot agree upon is the fact that this note represents in part not only cash loaned to the company, but interest on these preferred certificates. The note represents an actual cash loan of \$2,500, but there had been interest paid by the company on these preferred

certificates, which, if unlawfully paid, would constitute a counterclaim to the note.

I presume that we may stipulate that my statement of facts may be accepted as the facts upon which the Court will base its findings.

Mr. FAVILLE.—Will you consent to two other propositions: That as to a large amount of this preferred stock interest was in fact paid at the rate specified in that certificate, and at the time fixed in the certificate, and without reference to the fact as to whether the company had earned the dividends out of which the same could be paid, and was in fact so paid; and also the further fact that of the issue of stock about \$60,000 was in fact paid for in full by the company, with the interest on it?

Mr. GILBERT.—That is the fact, and we will concede it.

Mr. FAVILLE.—Now, with regard to the other matter, it may be stipulated that the Court shall find these matters in finding and decree that the statement made by Mr. Gilbert, supplemented by the statement I have just made, shall be the finding of the Court as to [38] the facts upon which his conclusion is predicated.

The COURT.—Very well.

Mr. FAVILLE.—And I think we can embody them in the decree, possibly, as a finding of fact.

There are some other claims, your Honor, that I am interested in for clients, of another character. Mr. Gilbert and I have agreed, and I think we might stipulate as to them.

Mr. GILBERT.—The *S. G. Armstrong* claim as

filed, the receiver recommends the allowance of that part of the claim based upon the \$2,500 note. The rest of the claim includes a \$156 note which was executed as a premium on an exchange of common for preferred stock that we have not allowed. There are eleven shares of preferred stock with these riders attached, guaranteeing redemption at a certain date, and twenty-six shares of preferred stock without riders. Both of those we have not allowed.

Mr. FAVILLE.—The others will be allowed.

Mr. GILBERT.—The others will be allowed.

Mr. FAVILLE.—Now, on that other proposition, as to the issuance of notes by the company as a premium on stock that you refer to, I suppose the Court shall make a finding on them, as you do not allow them.

Mr. GILBERT.—Yes.

Mr. FAVILLE.—Just state the fact, what it is, and that you do not allow it. There are a number of notes, so that your Honor by a general order can make such finding and classify them, so that we can classify those that fall within that class.

Mr. CAMPBELL.—Those notes that you say there is no objection to, were they given in payment of some of this preferred stock?

Mr. GILBERT.—No, absolute loans.

Mr. FAVILLE.—Absolute cash loans.

Mr. GILBERT.—The facts in reference to those so called premium notes, and the S. G. Armstrong note in particular, as I understand [39] it, are simply these: A stockholder holding common stock ar-

ranged with the company to exchange it for preferred stock. In the exchange one stock had a greater book value on the books of the company than the other, and representing the difference in value the company executed a note to the holders with whom it made the exchange. Our position in regard to that is that a corporation in this state is not permitted to deal in its own stock in any way. We feel that the corporation has no right to pay a premium to one class of stockholders over the other, or deal in the stock in any way, and that is what the transaction amounted to.

Mr. FAVILLE.—This is the fact with regard to that whole classification of notes.

Now, on the Hakes' claim—

Mr. GILBERT.—As to the M. Hakes' claim, the receiver recommends an allowance as to the note of \$1,700, which I find is a *bona fide* loan, and accrued interest on that note, both on the note itself, and accrued interest on a previous note, of which the present note was a renewal.

We do not recommend allowance of the note for \$240 and interest, representing a six per cent premium on the exchange of stock. That comes within the same class just discussed.

The receiver does not recommend the allowance of the claim based upon forty shares of preferred stock, with no rider attached, nor upon the seventeen shares of preferred stock with the rider attached.

Mr. FAVILLE.—Yes; I take it that those will all

fall into their proper places in the final adjustment of the matter.

Mr. GILBERT.—On the claim of F. R. Cornish, the receiver recommends the allowance of a note for \$1,000, dated April 23, 1914, and interest. Also a note for \$1,000, dated December 28, 1913, with interest. The receiver does not recommend the allowance of the claim for \$600, as represented by a note of November 18, 1911, given as a premium on [40] the exchange of stock; nor a note for \$360 of the same date, given for a premium on an exchange of stock; nor a claim based upon 185 shares of preferred stock, 25 of which bear riders guaranteeing redemption at a certain date, and 160 of which contain no riders.

The claim of F. F. Faville, five shares of preferred stock with a rider, and 58 shares of preferred stock without a rider, we do not recommend allowance. Nor do we recommend the allowance of a note for \$439.07, representing a premium on an exchange of stock.

The claim of Cora F. Faville, based on two shares of preferred stock with a rider, and eighteen shares of preferred stock without a rider, and a note for \$108 given for premium on an exchange of stock, we do not recommend the allowance of.

Now, there is another class of claims, if your Honor pleases, that I would like to call the Court's attention to, and that is claims based on notes given in redemption of this preferred stock. Mr. Lund is here representing one of such claims, and I think

we might as well agree upon the facts, Mr. LUND, in that case. I may state them, may I not?

Mr. LUND.—I think so.

Mr. GILBERT.—I understand the claim of the Scandinavian-American Bank is based upon notes given by the Fidelity Lumber Company in redemption of certificates of stock theretofore held by the bank. The stock in question, I believe, contains the riders that we have discussed here.

Mr. LUND.—Yes.

Mr. GILBERT.—Now, as to that, it seems to me that if the Court should hold that this is stock, and not a money obligation, that under the laws of this state a corporation is expressly prohibited from reducing its capital stock in any but a specified manner, and it would be unlawful for this corporation to give a note in redemption of its stock, and if it did give such a note with that consideration involved the note would have to fall. In other words, that the [41] corporation would not be permitted to voluntarily either in cash or by money obligation attempt to retire any of its stock to the prejudice of any of the general creditors.

Mr. LUND.—I would like in addition, Mr. Gilbert, to state the origin of this stock. The facts are that the Fidelity Lumber Company agreed with C. E. Semple & Son to purchase certain timber claims which they owned, I think on the Pend d'Oreille River, for a certain fixed sum. They paid them part in cash, and gave them these certificates of stock, with the obligation of the company attached to redeem, and pay interest at a certain rate.

The obligations were eventually hypothecated with the Scandinavian-American Bank, which consequently became the owner. In the meantime the company paid the interest at the times stated regularly, without reference to the earnings of the company; and at a certain time, which we take it is immaterial, but at a time when the corporation was entirely solvent, they issued the note to the Scandinavian-American Bank for this amount of money in redemption of this stock.

Mr. GILBERT.—Mr. Lund, do I understand that it is your claim that the Fidelity Lumber Company's obligations to the Semples were put up at the bank, or just the stock?

Mr. LUND.—Simply the stock with the rider.

Mr. GILBERT.—Yes; that is correct.

Mr. LUND.—But originally it was given in payment of the purchase price of some timber claims, or partly.

Mr. GILBERT.—That is correct.

Mr. LUND.—The other portion having been paid in cash.

Mr. GILBERT.—Now, as to the Bruce-Edgerton Lumber Company claim, which is quite a large claim, the receiver is prepared to recommend the allowance of that claim, in full, with the following exceptions:

Included in the claim is an item of \$6,000 and odd, which is designated as a bonus, or premium which is being charged up to [42] the Fidelity Lumber Company, said to represent a loss or sacrifice which the Bruce-Edgerton Lumber Company made in selling certain line lumber-yards in order to raise the

money to loan to the Fidelity Lumber Company. I think the facts which we will have no dispute about are as follows: That the Bruce-Edgerton Lumber Company from time to time had loaned large amounts of money to the Fidelity Lumber Company; that the Fidelity Lumber Company was in need of further funds, and the Bruce-Edgerton Lumber Company agreed to loan those funds; that in order to raise the funds for the purpose of loaning this money to the Fidelity Lumber Company the Bruce-Edgerton Lumber Company sold certain of its assets, to wit, lumber-yards; that besides charging ten per cent interest on the money loaned to the Fidelity Lumber Company there was charged up this so-called bonus, representing what they said they were obliged to sacrifice by making a quick sale of these line yards; that the Fidelity Lumber Company agreed to pay this bonus by appropriate action through its board of directors. We are resisting the allowance of that item, if your Honor please, because it seems to us that it would be allowing this debtor to pay an usurious rate of interest on the money loaned, and would, therefore, be unlawful, and the Court could not consider it. I do not particularly want to urge the objection, but I do not want to be put in the position of conceding an item of that kind.

Mr. FAVILLE.—Did your statement include the fact that it was agreed between the parties that the amount was a fair amount which was to be so paid?

Mr. GILBERT.—Yes, it was agreed between the Fidelity Lumber Company and the Bruce-Edgerton



Lumber Company that this item was a fair amount, and should be paid.

The COURT.—Don't you think it would violate the usury law of the state?

Mr. FAVILLE.—The only thing I can plead in behalf of these people [43] is that one of them lives in Minnesota, and may not be familiar with the laws of the State. The situation is exactly as Mr. Gilbert outlined it. The Bruce-Edgerton Company had a contract by which they were to be paid ten per cent interest, and in order to secure this money at a time when the money market was very stringent, being very largely interested in this company, they made sacrifices of their yards in Minnesota, and it was agreed between the companies afterwards that the six thousand dollars in fact represented such a loss, which they suffered, and the other company agreed that they would make them whole on that proposition. Those are the absolute facts. What the result is is a matter of law, I think.

Mr. ORR.—I am not quite clear on the status of this C. W. Carter claim. The only thing I know of the facts is what Mr. Carter has written me from Los Angeles. He states in his letter that this note of \$2,500 was for money loaned, and unpaid interest on the original loan, and he also states in his objections which he filed here that he at one time did have six shares of this preferred stock; that the company redeemed that stock by giving him a note for the amount of it, with the accrued interest, amounting to something like \$680, and that the note was paid

to him in full. I think that is Mr. Carter's understanding of it, and if that is correct there is no part of this preferred stock, or the interest that is due on it, in this \$2,500 note. That is a separate transaction that was paid some time ago. The only question is whether they can recover that back from him.

As to Marium Carter, there is an item here as to which they claim he acted as her agent. They gave her a note at the same time that they gave him a note in redemption of this preferred stock, and that he collected that as her agent, and they are offsetting that as against this claim of his. It seems to me that whatever the ruling of the Court might be, that they could not counterclaim a distinct claim against some other individual simply because he acted as agent in the matter, and the question is whether [44] they have a right to recover those payments back or not.

The COURT.—Does that dispose of all the questions of fact?

Mr. GILBERT.—There are two or three other claims.

Mr. HURN.—If the Court pleases, there is a claim here of S. K. Long. As I understand the facts, Mr. Long has a promissory note for \$175, which is a direct loan to the company made by him, and that he has never had any stock in the company, and never negotiated for any; never had any dealing with the company other than this loan of \$175.

The COURT.—What is the objection to the claim, Mr. Gilbert?

Mr. GILBERT.—I am trying to find out.

Mr. HURN.—If there is anything about this I would like to introduce testimony now, so that it might be out of the way.

Mr. GILBERT.—The objection that we have in mind to that claim is this: The company redeemed certain preferred stock held by one J. C. Jacobson, and instead of issuing a note to Jacobson, through some arrangement between Jacobson and Long, a note was issued to A. K. Long, which would involve the question whether Long had any notice as to what this note was given for.

Mr. HURN.—Mr. Lee is here, and I will put him on the stand with reference to that claim.

The claim of H. S. Temple, I can testify to that myself.

The claim of A. G. Willis—

Mr. GILBERT.—I went over the Temple claim with Mr. Hurn, and I am satisfied that that should be allowed, under his statement as filed.

The COURT.—Very well.

Mr. HURN.—Now, the claim of A. G. Willis?

Mr. GILBERT.—As to the A. G. Willis claim, and the B. L. Willis claim, the only possible objection to those claims grows out of redemptions of this preferred stock. For instance, as to Mr. Willis' claim, he has a credit of something like \$1,600 on the books of the company for salary during the last year before the receivership. Now, it is a mutual running account over a period of quite [45] a few years, and among other items in the account are several credits for the redemption of this preferred

stock. If the Court should hold that this redemption was invalid, then those credits should be stricken from the account, and that would probably leave Mr. Willis a small debtor to the company instead of a creditor.

As to the A. G. Willis account, Mrs. Willis, we claim that is based upon a note which was given and charged to Mr. B. L. Willis. So, that, if the redemption of the stock should taint the account at all it would involve these items. I don't say that it would; I don't know. It depends upon how far the Court goes in its holding.

Mr. HURN.—We can agree upon the facts as to B. L. Willis, can't we?

Mr. GILBERT.—I think we can.

Mr. HURN.—I will make a statement, then as I understand it: That about the 1st day of December, 1914, there was standing to the credit of B. L. Willis upon the books of the Fidelity Lumber Company for approximately \$100; that at about that date the affairs of the Fidelity Lumber Company were placed in the hands of what was designated as a creditors' committee, who had complete and full management of all its affairs from that time on up to the time of the appointment of the receiver by the Court. That while the affairs of the company were in the hands of this creditors' committee B. L. Willis was employed by this committee to work for the committee in the mill of the company at Newport, Washington; that all of the account of \$1,399.35 which he claims, except this \$100 standing to his credit at the time of the appointment of the so-called creditors'

committee, was earned by him while acting for this creditors' committee, and allowed by him to stand to his credit on the books of the company; and that none of this sum, either the \$100 or the balance of it, had any relation to any stock transaction with the company, but was solely his personal earnings during that time.

Mr. GILBERT.—I better put the agreement this way: We will agree that Mr. Willis would testify to that state of facts, and we will [46] offer no testimony to the contrary.

The COURT.—Very well.

Mr. HURN.—Now, as to the A. G. Willis claim: Mr. B. L. Willis will testify to the following state of facts, and it may be stipulated in that way:

That at about the date of this promissory note his wife, A. G. Willis, was the owner of 160 acres of timber land which she had acquired under the timber culture act, and that she sold this timber claim to the Fidelity Lumber Company, and that the note in question was given by the Fidelity Lumber Company to her in payment for this timber claim; that it was her own separate property, and that the note or any part of it did not grow out of any transaction in relation to stock, or any stock certificates, or in any other form than the purchase of the real estate by the company from her.

Mr. GILBERT.—May I inquire what you know about the charging of this particular note to Mr. Willis' account?

Mr. HURN.—I know nothing about it.

Mr. GILBERT.—I was wondering if we couldn't

reserve decision upon that, and we will investigate a little further.

The COURT.—Very well.

Mr. HURN.—The matter may stand this way: If we can agree upon it afterwards I presume the Court will not make any findings upon it.

The COURT.—Anything further?

Mr. CAMPBELL.—I have a petition I would like to read and file. Mr. Hurn has referred to a certain creditors' committee. It seems that about November 14th, 1914, the creditors got together and agreed upon an extension of time, and appointed a creditors' committee, consisting of Mr. Yeomans, of the Old National Bank, Mr. McClintock of the McClintock-Trunkey Company, and Mr. Thompson of the Holley-Mason Company, who should have charge of the business of the Fidelity Lumber Company, with an opportunity to try to work it out, or reorganize it, and that agreement provided that it [47] should not be binding unless it was signed by 95 per cent of the creditors; and that they should take hold of the business and conduct it, pay the running expenses, and have full charge of the business. They took possession of the business under this agreement, and proceeded to conduct the business. In the conduct of the business it was necessary for them to buy supplies and to employ men; and in buying those supplies and employing the men the committee told them that it was their understanding that those claims so contracted by them would be preferred claims.

I am asking to file a petition setting out a list of the claims which were incurred by this committee

during this time, and ask that they be allowed as preferred claims—not preferred as against any mortgage claims, but as against nonsecured creditors.

The COURT.—What do they amount to?

Mr. CAMPBELL.—They amount to \$7,159.94.

The COURT.—Were they presented to the receiver?

Mr. CAMPBELL.—Yes; I think so. I will say that this committee at the time the receiver was appointed turned over something like \$3,500 in cash, which if it had been used at the time probably would have been sufficient to pay the accounts which were then due. That these accounts that are asking to be allowed as preferred claims were current accounts necessary for the committee to incur to keep the business going, and this was simply the accumulation at the time of the appointment of the receiver. More than 95 per cent of the creditors.

The COURT.—Is that claim resisted by the receiver?

Mr. CAMPBELL.—I just handed him the petition this morning, and I don't really know.

Mr. GILBERT.—I might explain our position in reference to that. When notice was first published there were a number of creditors that called our attention to the claim for preferences on account of this committee agreement. I advised the receiver at that time [48] that I couldn't figure out why they were entitled to any preference on them, and so advised them. All the creditors then came in and filed regularly verified claims. After this notice for this particular hearing, however, the question

was again raised, and I said I did not feel as attorney for the receiver that I ought to interfere between two classes of creditors, so that we have never formally allowed or disallowed it. I think this is a matter, however, that ought to be brought up regularly in a way that all other creditors would have notice of this application. It includes about \$7,000. If that was the arrangement, and any just ground can be found for preferring those claims the receiver has no objection.

Mr. CAMPBELL.—I would think those creditors who signed that agreement, constituting more than 95 per cent of them, should not object, and I don't believe that they would, and I don't think they ought to be allowed to, because they were parties to the agreement; and while the agreement does not specifically state that this indebtedness shall be treated as preferred, it was so understood, and it does provide that they shall proceed, and pay the running expenses. I would be very glad to have that brought up at any time. The reason it was not filed sooner is because I was out of the city and just returned a few days ago, and the matter was just brought to my attention Saturday. But, if they desire to have it set down for further hearing I would be glad to have it done.

Mr. LUND.—Have these claims been presented?

Mr. GILBERT.—They have been allowed as general claims.

Mr. LUND.—Not as preferred claims.

Mr. GILBERT.—No.

Mr. CAMPBELL.—I thought they had been taken



up with the committee, but the committee has not had the matter brought to their attention until recently. I think they expect the committee to see that they are paid. [49]

Mr. GILBERT.—If I may be permitted to suggest, if it would not unduly delay the hearing of that petition I think notice of this application ought to be given to the creditors. We have filed a report in which it is stated that these are filed as general claims.

The COURT.—The report should not be changed without giving notice to the creditors.

Mr. CAMPBELL.—Might I not file this petition, Your Honor, and have notice sent?

The COURT.—Yes; you may file the petition.

Mr. CAMPBELL.—I have handed the petition to Dr. Hare, and ask that it be filed.

The COURT.—Is there anything further?

Mr. GILBERT.—I would like to have the Court fix a time when each party in interest may file a brief, or statement of his position.

The COURT.—I would like to have a statement of facts agreed upon here, classifying the different claims, showing what head they come under.

Mr. GILBERT.—We will have these agreed statements written up by the stenographer and furnish them to the Court as a statement of facts.

Mr. FAVILLE.—With regard to that other matter I will state this further fact: That concerning \$6,100 of the Bruce-Edgerton Lumber Company claim growing out of the sacrifice by reason of the sale of yards to raise this money, that being filed as a claim,

it is not their contention that the entire indebtedness is tainted with usury.

The COURT.—Oh, no; just the objection to that one part of it.

Mr. FAVILLE.—That one claim is the illegal claim; it limits it to that.

The COURT.—Yes. It would, in my opinion, afford a very easy way to override the usury law of the state if a claim of that kind should be allowed.

The foregoing constitutes all the proceedings had at said [50] hearing.

[Endorsements]: Statement of Facts. Filed June 13, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [51]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

2208.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Opinion.**

HAMBLEN & GILBERT, for Receiver.

FAVILLE & WHITNEY, F. B. DODDS, J. B. CAMPBELL, HURN & HURN, CHARLES P. LUND and JOHN E. ORR, for Creditors.

RUDKIN, District Judge.

In view of the agreed statement of facts in this case I will not go into details, but will content myself with a brief statement of my conclusions and the reasons therefor.

The principal and most difficult question in the case relates to the status of the holders of so-called preferred stock certificates, some of which have riders or agreements on the part of the corporation thereto attached. These certificates and riders are substantially in the following form:

“This certifies that \_\_\_\_\_ is the owner of \_\_\_\_\_ shares of the preferred stock of the Fidelity Lumber Company, of the par value of one hundred dollars per share, transferable only on the books of the corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

“The owner of this certificate of stock is entitled to interest on the par value hereof at the rate of seven per cent per annum, payable semi-annually on the first days of July and January of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying

the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying the owner thereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stock-holders' [52] meeting held January 5th, 1909.

“For value received the Fidelity Lumber Co. hereby agrees with \_\_\_\_\_, owner of preferred certificate of stock No. — for — shares of the preferred of the Fidelity Lumber Co., to redeem said stock at par, with accrued interest, at the end of five years, from the date of said certificate, upon written request of the holder or his assigns.

“FIDELITY LUMBER CO.

“By A. J. WILSON, Secretary.”

The resolution referred to in the foregoing certificate provided for an increase in the capital stock of the corporation from \$500,000 to \$1,000,000, of which \$200,000 should be preferred. The stock as issued conforms to the resolution aside from the fact that the resolution contained a provision that if the corporation defaulted in the payment of interest for a period of one year, the holder of the certificate should be entitled to vote and participate in the conduct of the affairs of the company in the same manner as the owner of common stock.

The statutes of the State of Washington provide

that no corporation shall commence business, or institute proceedings to condemn land for corporate purposes until the whole amount of the capital stock has been subscribed; and that it shall be unlawful for the trustees to make any dividend except from the net profits arising from the business of the corporation, or divide, withdraw, or in any way pay to stockholders any part of the capital stock of the company, or reduce the capital stock of the company except in the mode prescribed by law.

Rem. & Bal. Codes and Statutes of Washington,  
Sections 3677 and 3697.

“Strictly the capital stock of a corporation is the money contributed by the incorporators to the capital, and is usually represented by shares issued to subscribers to the stock on the initiation of the corporate enterprise.”

10 Cyc. 364.

In view of these statutory provisions in my opinion the certificates here in question represent a part of the authorized capital of the corporation, and the agreement on the part of the [53] corporation to retire or redeem them is null and void.

Tait v. Pigott, 32 Wash. 344 and 38 Wash. 59.

Tacoma Ledger Co. v. Western Home etc. Asso.,  
37 Wash. 467.

Spencer v. Smith, 201 Fed. 647.

The differences between these certificates and riders and the certificates in *Spencer v. Smith*, *supra*, are slight and unimportant, and the conclusion of the Court in that state is in harmony with our statutes in accordance with sound public policy.

Substantially all the authorities bearing upon the question are reviewed in that case and no useful purpose will be subserved by a further citation or review of them at this time.

While, therefore, the contracts embodied in the certificates and riders are valid as between stockholders and as against the corporation, they are void as to creditors, and all obligations of every kind and character arising out of them must be postponed until the claims of general creditors have been satisfied in full.

The claim of the Bruce-Edgerton Lumber Company in the sum of \$6,187.50, representing a bonus or premium on a loan from that company to the Fidelity Lumber Company is plainly violative of the usury law of the state and must be disallowed.

These general observations will perhaps be sufficient to enable counsel to classify and liquidate the different claims presented to the receiver. Let an order be submitted in accordance herewith.

[Endorsements]: Opinion. Filed in the U. S. District Court, Eastern District of Washington. June 29, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [54]

*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Order Allowing and Rejecting Claims.**

This matter coming regularly on for hearing on the 8th day of May, 1916, upon the report of the receiver herein of claims filed, and upon the show cause order of this Court requiring creditors to appear and file any objection they might have to the report of said receiver, and upon the various objections filed by certain creditors herein; W. S. Gilbert, of Hamblen & Gilbert, appearing for the receiver, and Messrs. John E. Orr, J. B. Campbell, F. F. Faville, C. P. Lund and D. W. Hurn appearing on behalf of various creditors and the parties appearing at said hearing having stipulated as to the allowance of certain claims, and having stipulated in open court as to the facts in connection with other claims which the receiver had disallowed, and the Court having heard the argument of counsel and having considered the written briefs filed herein, and hav-

ing heretofore filed herein its written opinion and decision:

It is ORDERED, ADJUDGED and DECREED, as follows:

1. That the payment by the receiver of all lienable claims set out in Schedule "A," attached to its report, be and the same is hereby approved.

2. That of the claims of all creditors heretofore filed with the receiver other than those already allowed and ordered paid as preferred claims, the following are hereby allowed and approved in the amounts set opposite their respective names: [55]

Anderson, Gust	Newport, Wash.	\$ 83.65
Armstrong, S. G.	Cedar Rapids, Ia.	2611.67
Ballard, J. O.	Malone, N. Y.	1182.70
Bank of Colville	Colville, Wash.	5358.88
Bell & Turnbull	Newport, Wash.	71.10
Bowman Lumber Co., S. H.	Minneapolis, Minn.	5255.55
Boyer, J. F.	Los Angeles, Calif.	2172.89
Bruce, W. J.	Minneapolis, Minn.	815.03
F. A. Chamberlain, Trustee for creditors of		
Bruce-Edgerton Lumber Co.	Minneapolis, Minn.	79483.77
Carter, C. W.	Pasadena, Calif.	2028.19
Carter, Miss Luvicy E.	Santa Ana, Calif.	3237.40
Carter, Mrs. Marium	Santa Ana, Calif.	9401.90
Centennial Mill Co.	Spokane, Wash.	2423.92
Central Warehouse Lmbr. Co.	Minn. Trans., Minn.	23.12
Cerro Gordo State Bank	Clear Lake, Ia.	1075.77
Chicago & Northwestern Ry. Co.	Chicago, Ill.	40.69
Cornish, F. R.	Cedar Rapids, Ia.	2088.48
Dalkena Lumber Co.	Dalkena, Wash.	1536.21
DeVeuve Co., The James H.	Seattle, Wash.	2506.49
Empire Packing Co.	Spokane, Wash.	694.05
Erwin, F. I.	Mackay, Idaho	265.90
Fox, Mike	Newport, Wash.	138.24
Fidelity National Bank	Spokane, Wash.	5171.11
First National Bank	Primghar, Iowa	2790.58
Gordon & Co., B. L.	Spokane, Wash.	1027.69



*Union Trust & Savings Bank.*

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Great Northern Railway Co.	Spokane, Wash.	8.00
Hakes, M.	Laurens, Iowa	1846.20
Hamblen & Gilbert	Spokane, Wash.	337.87
Holley-Mason Hdwe. Co.	Spokane, Wash.	8425.00
Hurn & Hurn	Spokane, Wash.	21.50
Imperial Coffee & Tea Co.	Spokane, Wash.	49.37
Jones & Dillingham	Spokane, Wash.	33.06
Kaniksu Boom & Nav. Co.	Priest River, Idaho	985.91
Lindsley Brothers Co.	Spokane, Wash.	2000.00
Long, Samuel K.	Newport, Wash.	199.85
McClintock Trunkey Co.	Spokane, Wash.	4310.50
McDonald & Son, W. W.	Medford, Oregon	5455.55
Montzheimer, A.	Joliet, Ill.	1395.29
Montzheimer, O. H.	Primghar, Ia.	95.80
Neumeyer & Diamond	New York, N. Y.	57.38
Norrish, R. S.	Morrison, Ill.	5522.92
Northern Handle Co.	Bowling Green, Mo.	238.87
Nott-Atwater Co.	Spokane, Wash.	1211.45
Old National Bank	Spokane, Wash.	80108.57
Panhandle Lumber Co.	Spirit Lake, Idaho	875.17
Priest River Hdwe. Co.	Priest River, Idaho	105.07
Rice, D. E.	Spokane, Wash.	15.99
Royal Indemnity Co.	Spokane, Wash.	2137.96
Ryan & Newton Co.	Spokane, Wash.	318.01
Security State Bank	Newport, Wash.	2578.33
Spielberg Co., The E. O.	Winslow, Neb.	3.50
Spokane Drygoods Co.	Spokane, Wash.	465.69
Spokane & Eastern Trust Co.	Spokane, Wash.	1013.22
Stahly, Ulysses	Colville, Wash.	534.11
Willis, A. G.	Spokane, Wash.	714.67
Standard Oil Co.	Spokane, Wash.	185.27
Stone, C. H.	Clayton, Ga.	2300.70
Temple, Anna S. (D. W. Hurn, Agt.)	Spokane, Wash.	1088.88
Union Securities Co.	Spokane, Wash.	3288.90
Valvoline Oil Co.	Portland, Oregon	49.12
Washington Machinery & Supply Co.	Spokane, Wash.	32.40
Young, George	Priest River, Idaho	24.96
Zwech, A. T.	Newport, Wash.	839.46

3. That all other claims filed with the receiver, except as allowed either in whole or in part in the foregoing paragraph, be and the same are hereby rejected and disallowed.

4. It appearing to the Court that the Old National Bank and F. A. Chamberlain, as trustee, have agreed upon the distribution of any dividends upon the claim of the Bruce-Edgerton Lumber Company which has been assigned to and is held by the said F. A. Chamberlain, as trustee, and is allowed in this order, and have filed herein a stipulation covering such agreement;

It is further ORDERED that 75% of all dividends which may be paid by the receiver on the claim of the said F. A. Chamberlain, as trustee, as allowed in this order, shall be paid to the Old National Bank of Spokane, Washington, and the balance thereof, to wit: 25% of such dividends, shall be paid to the said F. A. Chamberlain, trustee.

5. It further appearing to the Court from the report of the receiver on file herein that A. Montzheimer, O. H. Montzheimer, and C. H. Stone, three of the creditors above named have heretofore entered into a written agreement with the Old National Bank to the effect that the claim of the Old National Bank should be paid in full before anything should be paid upon the claims of said creditors;

It is further ORDERED that in the event the dividends paid on the claim of the Old National Bank herein shall be insufficient to pay said claim in full, then the dividends upon the claims of the said A. Montzheimer, O. H. Montzheimer and C. H.

Stone, or so much thereof as may be necessary to pay the claim of the Old National Bank in full, shall be paid to the Old National Bank, to all of which the objecting creditors whose claims are rejected, except, and their exception is allowed.

(Signed) FRANK H. RUDKIN, Judge.

[Endorsements]: Order Allowing and Rejecting Claims. Filed November 14, 1916. W. H. Hare, Clerk. By S. M. Russell, Deputy. [57]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Assignment of Errors.**

Come now S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville, and Scandinavian-American Bank of Spokane, a corporation, and file the following assignment of errors upon which they will rely in the prosecution of their appeal in the above-entitled cause from the order and decree made by this Honorable

Court on the 14th day of November, A. D. 1916, in the above-entitled cause.

## I.

That the United States District Court, in and for the Eastern District of Washington, Northern Division, erred in rejecting the claims of S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville, and Scandinavian-American Bank of Spokane, a corporation, and each of them, duly presented to and filed with the Union Trust & Savings Bank, a corporation, as receiver for the Fidelity Lumber Company, a corporation, and in entering its order and decree rejecting and disallowing the claims of said parties, and each of them.

WHEREFORE, said S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville, and Scandinavian-American Bank of [58] Spokane, a corporation, appellants, and each of them, pray that said order and decree be reversed, and that said District Court be directed to allow said claims, and each of them.

(Signed) FAVILLE & WHITNEY,

CHARLES P. LUND,

Solicitors for Appellants.

Due service of the within assignment of errors by a true copy thereof is hereby admitted at Spokane, Washington, this 14th day of May, 1917.

(Signed) HAMBLEN & GILBERT,

Solicitors for Union Trust & Savings Bank, as Receiver for the Fidelity Lumber Company, a Corporation.

[Endorsements]: Assignment of Errors. Filed in the U. S. District Court for the Eastern District of Washington, May 14, 1917. W. H. Hare, Clerk. By S. M. Russell, Deputy. [59]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Petition for Appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and Order Allowing Same.**

To the Honorable District Court of the United States for the Eastern District of Washington, Northern Division.

Now come S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville, and Scandinavian-American Bank of Spokane, a corporation, and feeling themselves aggrieved by the order and decree made and entered by said Court on the 14th day of November, 1916, in the above-entitled cause, by Faville & Whitney and

Charles P. Lund, and do hereby appeal from said order and decree to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the Assignment of Errors filed herein, and pray that this appeal may be allowed, and that citation issue as provided by law, and that a transcript of the record, proceedings and papers on which said order and decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, and that the proper order touching the security to be required of them to perfect that appeal, be made, fixing the amount of security which appellants shall give and furnish upon said appeal, and that upon the giving of said security, all further proceedings of this court be suspended and stayed until the determination of said appeal by the United States Circuit Court [60] of Appeals for the Ninth Circuit.

Dated this 14th day of May, 1917.

(Signed) FAVILLE & WHITNEY,  
CHARLES P. LUND,  
Solicitors for Appellants.

The foregoing petition granted and said appeal is allowed upon said parties appellant giving a bond, conditioned as required by law, in the sum of five hundred (\$500) dollars.

Dated this 14th day of May, 1917.

(Signed) FRANK H. RUDKIN,  
United States District Judge.

Copy of within petition for appeal and order al-

lowing same and fixing bond acknowledged this 14th day of May, 1917.

(Signed) HAMBLEN & GILBERT,  
Solicitors for Union Trust & Savings Bank, a Corporation, Receiver for the Fidelity Lumber Company, a Corporation.

[Endorsements]: Petition for Appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and Order Allowing Same. Filed in the U. S. District Court for the Eastern District of Washington. May 14, 1917. W. H. Hare, Clerk. By S. M. Russell, Deputy. [61]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Bond on Appeal.**

KNOW ALL MEN BY THESE PRESENTS:  
That we, S. G. Armstrong, F. R. Cornish, M. Hakes,  
T. A. Trimble, Mary E. Trimble, Homer Trimble,  
Harry Trimble, Cora T. Faville, F. F. Faville, and  
Scandinavian-American Bank of Spokane, a cor-

poration, as principals, and O. A. Johnson and Clyde Johnson, as surety, are held and firmly bound unto Union Trust & Savings Bank, as receiver for the Fidelity Lumber Company, a corporation, in the penal sum of five hundred dollars (\$500), for which payment well and truly to be made we bind ourselves, our heirs, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 14th day of May, 1917.

WHEREAS, lately at the September term, A. D. 1916, of the District Court of the United States, for the Eastern District of Washington, Northern Division, in an action pending in said court between Continental & Commercial Trust & Savings Bank, a Corporation, and Ralph Van Vechten, Trustees, Plaintiffs, vs. Fidelity Lumber Company, a Corporation, Defendant, a final order and decree was entered against said parties, and said parties having obtained from said Court an order allowing the appeal to reverse said order and decree in the aforesaid suit, and a citation directed to the said Union Trust & Savings Bank, a corporation, as receiver for the Fidelity Lumber Company, a corporation, is about to be issued citing and admonishing it to be and appear at the United States Circuit [62] Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco thirty days from and after the filing of said citation;

NOW, THE CONDITION of the above obligation is such that if the said S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble,



Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville, and Scandinavian-American Bank of Spokane, a corporation, shall prosecute their appeal to effect, and shall answer all damages and costs that may be awarded against them, or either of them, if they, or either of them, fail to make their plea good, then the above obligation to be null and void; otherwise to remain in full force and effect.

(Signed) S. G. ARMSTRONG,  
F. R. CORNISH,  
M. HAKES,  
T. A. TRIMBLE,  
MARY E. TRIMBLE,  
HOMER TRIMBLE,  
HARRY TRIMBLE,  
CORR T. FAVILLE,  
F. F. FAVILLE and  
SCANDINAVIAN-AMERICAN BANK OF  
SPOKANE, a Corporation.

By FAVILLE & WHITNEY,  
CHARLES P. LUND,  
Their Attorneys.

O. A. JOHNSON,  
CLYDE JOHNSON.

The Union Trust & Savings Bank, a corporation, as receiver for the Fidelity Lumber Company, a corporation, is satisfied with the within bond and the sureties thereon.

(Signed) HAMBLEN & GILBERT,  
Attorneys for Receiver.

The foregoing bond is approved as to form, amount and sufficiency of surety this 14th day of May, 1917.

(Signed) FRANK H. RUDKIN,  
Judge of the United States District Court, for the  
Eastern District of Washington.

[Endorsements]: Bond on Appeal. Filed in the  
U. S. District Court for the Eastern District of  
Washington. May 14, 1917. W. H. Hare, Clerk.  
By S. M. Russell, Deputy. [63]

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*In the District Court of the United States for the  
Eastern District of Washington, Northern Divi-  
sion.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Citation on Appeal.**

The President of the United States to Union Trust  
& Savings Bank, a Corporation, as Receiver for  
Fidelity Lumber Company, a Corporation, and  
to Hamblen & Gilbert, Its Attorneys, Greeting:

YOU ARE HEREBY CITED and admonished to  
be and appear at the United States Circuit Court of  
Appeals, for the Ninth Circuit, to be held at the city  
of San Francisco, in the State of California, within

thirty days from the date hereof, pursuant to an appeal filed in the Clerk's office of the District Court of the United States for the Eastern District of Washington, Northern Division, wherein Continental & Commercial Trust & Savings Bank, a corporation, and Ralph Van Vechten, trustees, are plaintiffs, and you are appellee, and Fidelity Lumber Company, a corporation, is defendant, and S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville and Scandinavian-American Bank of Spokane, a corporation, are appellants, and show cause, if any there be, why the order and decree in said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States of America, this 14th day of May, 1917, in the year of Independence of the United States the [64] one hundred and forty-first.

(Signed) FRANK H. RUDKIN,  
United States District Judge for the Eastern District of Washington.

[Seal] Attest: (Signed) W. H. HARE,  
Clerk.

Due service of the within citation by a true copy thereof is hereby admitted at Spokane, Washington,

this 14th day of May, A. D. 1917.

(Signed) HAMBLEN & GILBERT,  
Solicitors for Union Trust & Savings Bank, a Corporation, as Receiver for Fidelity Lumber Company, a Corporation.

[Endorsements]: Citation. Filed in the U. S. District Court for the Eastern District of Washington. May 14, 1917. W. H. Hare, Clerk. By S. M. Russell, Deputy. [65]

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*In the District Court of the United States for the Eastern District of Washington, Northern Division.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Stipulation for Transcript of Record on Appeal.**

It is hereby stipulated between appellants, by their solicitors, and the Union Trust & Savings Bank, a corporation, as receiver for the Fidelity Lumber Company, a corporation, by its solicitors, that the transcript of the record on appeal in the above-entitled cause shall be made up of the following papers:

Order appointing Union Trust & Savings Bank, a corporation, receiver for Fidelity Lumber Company, a corporation; and qualification.

Original claims of S. G. Armstrong, F. R. Cornish, M. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville, and Scandinavian-American Bank of Spokane, a corporation; presented to and filed with said receiver.

Petition of Union Trust & Savings Bank as receiver for the adjudication of claims (except Schedules "A" and "B").

Objections of appellants to Report of Receiver.

Agreed statement of facts of counsel for said appellants and receiver.

Opinion of the Court.

Order and decree thereon.

Petition for appeal and order allowing the same.

Assignment of Errors.

Bond on Appeal.

Order allowing bond.

Original citation, with acceptance of service.

[66]

Stipulation as to making up of record;

—which comprise all of the papers, records and other proceedings which are necessary to the hearing of the appeal of said action in the United States Circuit Court of Appeals, and that no other papers, records or proceedings than those above mentioned need be included by the Clerk of said Court in making up his

return to said citation as a part of such record.

(Signed) FAVILLE & WHITNEY,  
CHARLES P. LUND,

Solicitors for Appellants.

HAMBLEN & GILBERT,

Solicitors for the Union Trust & Savings Bank, as  
Receiver for Fidelity Lumber Company.

[Endorsements]: Stipulation for Transcript of  
Record on Appeal. Filed in the U. S. District Court  
for the Eastern District of Washington. May 14,  
1917. W. H. Hare, Clerk. By S. M. Russell,  
Deputy. [67]

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*In the District Court of the United States for the  
Eastern District of Washington, Northern Divi-  
sion.*

No. 2208—Consolidated With No. 2218.

CONTINENTAL & COMMERCIAL TRUST &  
SAVINGS BANK, a Corporation, and  
RALPH VAN VECHTEN, Trustees,  
Plaintiffs,

vs.

FIDELITY LUMBER COMPANY, a Corporation,  
Defendant.

**Certificate of Clerk U. S. District Court to Transcript  
of Record.**

United States of America,  
Eastern District of Washington,—ss.

I, W. H. Hare, clerk of the District Court of the  
United States in and for the Eastern District of

Washington, do hereby certify that the foregoing typewritten pages constitute and are a full, true, correct and complete copy of so much of the record, pleadings, orders and other proceedings had in said action, as the same remain of record and on file in the office of the clerk of said District Court, as called for in the stipulation between appellants, by their solicitors, and the Union Trust & Savings Bank, a corporation, as receiver for the Fidelity Lumber Company, a corporation, by its solicitors; and that the same constitute my return to the order of appeal from the judgment of the District Court of the United States for the Eastern District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit, lodged and filed in my office on the 14th day of May, 1917.

I further certify that I hereto attach and herewith transmit the original Citation issued in said cause.

I further certify that I hereto attach and herewith transmit the original claims of S. G. Armstrong, F. R. Cornish, M. Hakes, Cora T. Faville, F. F. Faville, and Scandinavian-American [68] bank of Spokane, a corporation, presented to and filed with said receiver.

I further certify that the fees of the clerk of this court for preparing and certifying to the foregoing typewritten record amount to the sum of twenty-eight dollars and ten cents (\$28.10), and that the same has been paid in full by Charles P. Lund, one of the attorneys for the appellants.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court

at Spokane, in said district, this 29th day of May, 1917.

[Seal]

W. H. HARE,  
Clerk. [69]

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[Endorsed]: No. 3009. United States Circuit Court of Appeals for the Ninth Circuit. S. G. Armstrong, F. R. Cornish, H. Hakes, T. A. Trimble, Mary E. Trimble, Homer Trimble, Harry Trimble, Cora T. Faville, F. F. Faville and Scandinavian-American Bank of Spokane, a Corporation, Appellants, v. Union Trust & Savings Bank, a Corporation, as Receiver for Fidelity Lumber Company, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Eastern District of Washington, Northern Division.

Filed June 9, 1917.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.



**Exhibit—Proof of Claim of F. R. Cornish.**

[Endorsed]: No. 3009. U. S. Circuit Court of Appeals for the Ninth Circuit. Exhibit—Proof of Claim of F. R. Cornish. Filed June 9, 1917. F. D. Monckton, Clerk.

**PROOF OF CLAIM.**

(Attach Itemized Statement.)

**FIDELITY LUMBER COMPANY, DR.**

Newport, Washington.

To F. R. Cornish,

705 First Avenue, Cedar Rapids, Iowa

For four notes (as per attached itemized

statement) . . . . . \$3,316.82

Total amount, \$3,316.82

State of Iowa,

County of Linn,—ss.

F. R. Cornish, being first duly sworn, on oath deposes and says:

That the foregoing account is a true and correct statement of the account due and owing from the Fidelity Lumber Company to the said F. R. Cornish, and that there are no offsets or counterclaims of any kind, character or description that have not been credited or offset against said account.

Dated at Cedar Rapids, Iowa, this 6th day of July, 1915.

**F. R. CORNISH.**

Subscribed and sworn to before me this 6th day of July, A. D. 1915.

[Seal]                      EMMA G. SUFFICOOL,  
Notary Public in and for State of Iowa, Linn  
County, Residing at Cedar Rapids, Iowa.

Proof Claim for \$2088.48 Allowed.

C. Ck. 10/21/16.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

### PROOF OF CLAIM.

Supplemental to claim filed July 6th, 1915.

(Attach Itemized Statement.)

FIDELITY LUMBER COMPANY, DR.

Newport, Washington.

To F. R. Cornish,

705 First Avenue, Cedar Rapids, Iowa.

One Hundred Eighty-five (Copies of stock certificates herewith attached)

For shares, Preferred Stock.....\$18,500.00

Interest (7%) from Jan. 1, 1912, to July

1, 1915, (3 yrs. 6 mos.)..... 4,532.50

Total amount, \$23,032.50

State of Iowa,

County of Linn,—ss.

F. R. Cornish, being first duly sworn, on oath deposes and says:

That the foregoing account is a true and correct statement of the account due and owing from the Fidelity Lumber Company to the said F. R. Cornish and that there are no offsets or counterclaims of any kind, character or description that have not been

credited or offset against said account.

Dated at Cedar Rapids, Iowa, this 18th day of Aug., 1915.

F. R. CORNISH.

Subscribed and sworn to before me this 18th day of August, A. D. 1915.

[Seal]                      EMMA G. SUFFICOOL,  
Notary Public in and for State of Iowa, Linn  
County, Residing at Cedar Rapids, Iowa.

(COPY)

\$1000.00

Newport, Washington, Apr. 23rd, 1914.

Six months after date for value received, we promise to pay to the order of F. R. Cornish at his office in Cedar Rapids, Iowa, One Thousand and no/100 Dollars with interest, at the rate of ——— per cent per annum payable annually from maturity until paid, with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS,

President.

No. 1347. Due Oct. 23, 1914.

[Endorsed]: B. L. Willis.

COPY.

\$1000.00

Newport, Washington, Dec. 28, 1913.

Six months after date for value received, we promise to pay to the order of F. R. Cornish at his office in Cedar Rapids, Iowa, One Thousand and no/100 Dollars with interest, at the rate of ——— per cent per

annum payable annually from maturity until paid, with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS,

President.

No. 1293. Due June 28, 1914.

[Endorsed]: B. L. Willis.

(COPY)

\$600.00

Newport, Washington, Nov. 18th, 1911.

August 1st after date for value received, we promise to pay to the order of F. R. Cornish, Spokane, Wash., Six Hundred and no/100 Dollars with interest, at the rate of 6 per cent per annum payable—annually from Aug. 1st, 1911, until paid, with reasonable attorney fees and statutory costs if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS,

President.

No. 810. Due Aug. 1st, 1912.

\$360.00

(COPY)

Newport, Washington, Nov. 18, 1911.

August 1st after date for value received, we promise to pay to the order of Susan C. Cornish at Spokane, Wash., Three Hundred Sixty and no/100 Dollars with interest at the rate of 6 per cent per annum payable — annually from Aug. 1st, 1911, until paid, with reasonable attorney fees and statutory

costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS,

President.

No. 811. Due Aug. 1st, 1912.

[Endorsed]: Pay to F. R. Cornish.

SUSAN C. CORNISH.

**Exhibit—Proof of Claim of Cora T. Faville.**

[Endorsed]: No. 3009. U. S. Circuit Court of Appeals for the Ninth Circuit. Exhibit—Proof of Claim of Cora T. Faville. Filed June 9, 1917. F. D. Monckton, Clerk.

PROOF OF CLAIM.

(Attach Itemized Statement.)

Fidelity Lumber Co., Dr.,

Newport, Washington.

To CORA T. FAVILLE, Storm Lake, Iowa,

For principal on 18 shares Preferred Stock

in Fidelity Lumber Co., Certificate

#1. #163, copy Exhibit "A" hereto at-

tached .....\$1800.00

Interest on same as per terms of Certificate

January 1, 1912 to July 1, 1915..... 441.00

Interest on unpaid interest at 6% to July 1,

1915..... 39.69

Principal on 2 shares Preferred Stock in

Fidelity Lumber Co., Certificate

#2. #55, amount due under special con-

tract of July 1, 1909, on which no

payment has been made; amount due

December 1, 1913 ..... 227.95

Interest at 6% from December 1, 1913, to July 1, 1915.....	21.66
Copy of said Certificate attached marked Exhibit "B."	
Copy of said Contract attached marked Ex- hibit "C."	
Copy of letter demanding performance of contract marked Exhibit "D" attached.	
Note of Fidelity Lumber Co. dated Novem- ber 18, 1911, due August 1, 1911. Interest 6% payable annually from #3. August 1, 1911. Copy of note at- tached hereto marked Exhibit "C." August due August 1, 1915.....	136.16
	2666.46
Total amount,	\$2666.46

State of Iowa,

Buena Vista County,—ss.

Cora T. Faville, being first duly sworn, on oath deposes and says: That the foregoing account is a true and correct statement of the account due and owing from the Fidelity Lumber Company to the said Cora T. Faville, and that there are no offsets or counter claims of any kind, character or description that have not been credited or offset against said account.

Dated at Storm Lake, Iowa, this 9th day of July, 1915.

CORA T. FAVILLE.

Subscribed and sworn to before me this 9th day of July, 1915.

[Seal]

HARRY J. CROUSE,  
Notary Public in and for State of Iowa, Residing at  
Storm Lake, Iowa.

Not allowed.

C. Ck. 10/15/16.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

EXHIBIT "A."

Incorporated Under the Laws of the State of  
Washington.

No. 163

18 shares.

PREFERRED CERTIFICATE OF STOCK.

of

FIDELITY LUMBER COMPANY.

Capital Stock, \$1,000,000.00.

THIS CERTIFIES that CORA T. FAVILLE is the owner of 18 shares of the Preferred Stock of the FIDELITY LUMBER CO., of the par value of One Hundred Dollars per share, transferable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date

of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

IN WITNESS WHEREOF, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation at Spokane, Washington, this 18th day of November, A. D. 1911.

B. L. WILLIS, Pres.

(Seal)

A. J. WILSON, Secy.

Shares \$100 each.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

EXHIBIT "B."

Incorporated Under the Laws of the State of  
Washintgon.

No. 55.

2 Shares

PREFERRED CERTIFICATE OF STOCK  
of

FIDELITY LUMBER COMPANY.

Capital Stock, \$1,000,000.00.

THIS CERTIFIES that CORA T. FAVILLE is  
the owner of two shares of the Preferred Stock of the



FIDELITY LUMBER CO., of the par value of One Hundred Dollars per share, transferable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate of stock is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and the said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof of the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

IN WITNESS WHEREOF, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation at Spokane, Washington, this 1st day of July, A. D. 1909.

B. L. WILLIS, Pres.

A. J. WILSON, Secy.

(Seal)

Shares \$100 each.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

EXHIBIT "D."

Spokane, Washington.

By this SPECIAL AGREEMENT, made this first day of July, 1909, The Fidelity Lumber Company of Spokane, Washington, does hereby agree to redeem on the first day of December, 1913, Preferred Certificate of Stock dated July 1st, 1909, being Certificate No. 55 for 2 shares, by paying the Par Value of same to the holder together with all unpaid accrued interest; the surrender of said certificate with this special contract to be made to the Company at the time payment is received. But the holder of said Certificate may at her option retain the same and receive all benefits, until maturity, by surrendering this special contract to the Company for cancellation.

FIDELITY LUMBER COMPANY.

By B. L. WILLIS, Pres.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

EXHIBIT "D."

December 6, 1913.

Mr. B. L. WILLIS,  
c/o Fidelity Lumber Co.,  
Newport, Wash.

Dear Sir:

I find that I have two certificates of stock cover-

ing seven shares of the preferred stock of the Fidelity Lumber Company, that was redeemable under a special contract on the 1st day of December, 1913. Two of these shares, in certificate #55 belong to Mrs. Faville, and five shares in certificate #54 belong to me.

I enclose herewith a copy of the special agreement made in regard to these shares, providing for their redemption at par value, together with all unpaid accrued interest. I do not find that any interest has been paid on these shares since July 1, 1911.

We desire to have the special agreement carried out and the shares redeemed, and the accrued interest paid, and do not wish to avail ourselves of the option to retain the same until maturity.

If you will send the amount of the principal and accrued interest to me I will forward the certificates for cancellation, or if you prefer you may remit to the Commercial National Bank of this city and I will turn the certificates over to them, or will forward them to your bank for collection, just as you prefer. We are, however, depending on the redemption of these certificates according to this contract.

Yours very truly,

F. F. FAVILLE.

H.

P. S.—These two certificates are the original certificates of preferred stock issued to us July 1, 1909.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,

Receiver Fidelity Lumber Co.

## EXHIBIT "E."

\$108.00.

Newport, Washington, Nov. 18, 1911.

August 1st, after date for value received, we promise to pay to the order of CORA T. FAVILLE at Spokane, Wash., One Hundred Eight and no/100 Dollars, with interest at the rate of 6 per cent per annum payable annually from August 1, 1911, until paid with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS, Pres.

No. 813.

Due Aug. 1, 1912.

**Exhibit—Proof of Claim of F. F. Faville.**

[Endorsed]: No. 3009. U. S. Circuit Court of Appeals for the Ninth Circuit. Exhibit—Proof of Claim of F. F. Faville. Filed June 9, 1917. F. D. Monckton, Clerk.

## PROOF OF CLAIM.

(Attach Itemized Statement.)

Fidelity Lumber Company, Dr.,

Newport, Washington.

To F. F. FAVILLE, Storm Lake, Iowa,

For principal on 58 shares Preferred Stock

in Fidelity Lumber Co., Certificate

#1. #162, copy Exhibit "A" hereto at-

tached .....\$5800.00

Interest on same as per terms of Certificate

January 1, 1912, to July 1, 1915..... 1421.00

Interest on unpaid interest at 6% to July 1, 1915 .....	127.89
Principal on 5 shares Preferred Stock in Fidelity Lumber Co, Certificate #54, #2. amount due under special contract of July 1, 1909, on which no payment has been made; amount due December 1, 1913.....	570.42
Interest at 6% from December 1, 1913, to July 1, 1915.....	54.17
Copy of said Certificate attached marked Exhibit "B".....	
Copy of said Contract attached marked Exhibit "C".....	
Copy of letter demanding performance of contract marked Exhibit "D" attached.	
Note of Fidelity Lumber Co. dated November 18, 1911, due August 1, 1911. Interest 6% payable annually from #3. August 1, 1911. Copy of note attached hereto marked Exhibit "E."	
Amount due August 1, 1915.....	439.02

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Total amount, \$7912.50

State of Iowa,  
Buena Vista County,—ss.

F. F. Faville, being first duly sworn, on oath deposes and says: That the foregoing account is a true and correct statement of the account due and owing from the Fidelity Lumber Company to the said F. F. Faville, and that there are no offsets or counter-

claims of any kind, character or description that have not been credited or offset against said account.

Dated at Storm Lake, Iowa, this 9th day of July, 1915.

F. F. FAVILLE.

Subscribed and sworn to before me this 9th day of July, 1915.

[Seal] HARRY J. CROUSE,  
Notary Public in and for State of Iowa, Residing at  
Storm Lake, Iowa.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

Not allowed.

C. Ck. 10/25/16

EXHIBIT "A."

Incorporated Under the Laws of the State of  
Washington.

No. 162.

58 shares.

PREFERRED CERTIFICATE OF STOCK.

of

FIDELITY LUMBER COMPANY.

Capital Stock, \$1,000,000.00.

THIS CERTIFIES that F. F. FAVILLE is the owner of 58 shares of the Preferred Stock of the FIDELITY LUMBER CO., of the par value of One Hundred Dollars per share, transferable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

IN WITNESS WHEREOF, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation at Spokane, Washington, this 18th day of November, A. D. 1911.

B. L. WILLIS, Pres.

[Seal]

A. J. WILSON, Secy.

Shares \$100 each.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,

Receiver Fidelity Lumber Co.

## EXHIBIT "B."

Incorporated Under the Laws of the State of  
Washington.

No. 54.

5 Shares

## PREFERRED CERTIFICATE OF STOCK

of

## FIDELITY LUMBER COMPANY.

Capital Stock \$1,000,000.00.

THIS CERTIFIES that F. F. FAVILLE is the owner of five shares of the Preferred Stock of the FIDELITY LUMBER COMPANY, of the par value of One Hundred Dollars per share, transferable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate of stock is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and the said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof the par value of the part so re-



tired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

IN WITNESS WHEREOF, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation, at Spokane, Washington, this 1st day of July, A. D. 1909.

B. L. WILLIS, Pres.

[Seal]

A. J. WILSON, Secy.

Shares \$100 each.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

EXHIBIT "C."

Spokane, Washington.

By this SPECIAL AGREEMENT, made this first day of July, 1909, The Fidelity Lumber Company of Spokane, Washington, does hereby agree to redeem on the first day of December, 1913, Preferred Certificate of Stock dated July 1st, 1909, being Certificate No. 54 for 5 shares, by paying the Par Value of same to the holder together with all unpaid accrued interest; the surrender of said certificate with this special contract to be made to the Company at the time payment is received. But the holder of said Certificate may at his option retain the same and receive all benefits, until maturity, by surrendering this special contract to the Company for cancellation.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS, Pres.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

EXHIBIT "E."

\$348.00.

Newport, Washington, Nov. 18, 1911.

August 1st, after date for value received, we promise to pay to the order of F. F. FAVILLE at Spokane, Wash., Three Hundred Forty-eight and no/100 Dollars, with interest at the rate of 6 per cent per annum payable annually from August 1, 1911, until paid with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,  
By B. L. WILLIS, Pres.

No. 812.

Due Aug. 1, 1912.

**Exhibit—Proof of Claim of S. G. Armstrong.**

[Endorsed]: No. 3009. U. S. Circuit Court of Appeals for the Ninth Circuit. Exhibit—Proof of Claim of S. G. Armstrong. Filed June 9, 1917. F. D. Monckton, Clerk.

PROOF OF CLAIM.

(Attach Itemized Statement.)

FIDELITY LUMBER COMPANY, DR.

Newport, Washington.

To S. G. ARMSTRONG,

Cedar Rapids, Iowa.

For note dated Dec. 30-11 Principal. . . . \$ 156.00

And interest on same from Aug. 1-11 at 6% . . . . .	40.00
Note dated Oct. 30-1914 Principal . . . . .	2500.00
And interest on above from Oct. 30- 1914 at 8% . . . . .	137.00
106 shares common stock \$10600 and 37 preferred \$3700 . . . . .	14300.00
Total amount,	\$17133.00

State of Iowa,  
County of Linn,—ss.

S. G. Armstrong, being first duly sworn, on oath  
deposes and says:

That the foregoing account is a true and correct  
statement of the account due and owing from the  
Fidelity Lumber Company to the said S. G. Arm-  
strong and that there are no offsets or counterclaims  
of any kind, character or description that have not  
been credited or offset against said account.

Dated at Cedar Rapids, Iowa, this 7th day of July,  
1915.

S. G. ARMSTRONG,

Subscribed and sworn to before me this 7th day of  
July, 1915.

[Seal]

F. W. ARMSTRONG.

Notary Public in and for Linn County, State of  
Iowa, Residing at Cedar Rapids, Linn County,  
Iowa.

Proof claim for \$2611.67 allowed.

C. Ck. 10/3/16.

Received Jul. 14, 1915.

UNION TRUST & SAVINGS BANK,

Receiver Fidelity Lumber Co.

**Exhibit—Proof of Claim of M. Hakes.**

[Endorsed]: No. 3009. U. S. Circuit Court of Appeals, for the Ninth Circuit. Exhibit—Proof of Claims of M. Hakes. Filed June 9, 1917. F. D. Monckton, Clerk.

**PROOF OF CLAIM.**

(Attach Itemized Statement.)

Fidelity Lumber Company, Dr.

Newport, Washington.

To M. HAKES, Laurens, Iowa,

For principal on 40 shares of Preferred Stock in Fidelity Lumber Co., Certificate #169, copy Exhibit "A" hereto attached . . . . . \$ 4000.00

#1. Interest on same as per terms of Certificate December 2, 1911 to July 1, 1915 . . . . . 980.00

Interest on unpaid interest at 6% to July 1, 1915 . . . . . 88.20

For principal on 10 shares of Preferred Stock in Fidelity Lumber Co., Certificate #28, amount due under special contract of July 1, 1909 on which no payment has been made;

#2. amount due December 1, 1913 . . . . . 1140.84

Interest at 6% from December 1, 1913 to July 1, 1915 . . . . . 108.34

Copy of said Certificate attached marked Exhibit "B."

Copy of said Contract attached marked Exhibit "C."

For principal on 7 shares of Preferred Stock in Fidelity Lumber Co., Certificate #29, amount due under special contract of July 1, 1909, on which no payment has been made;	
#3. Amount due December 1, 1913....	798.59
Interest at 6% from December 1, 1913 to July 1, 1915.....	73.03
Copy of said Certificate attached marked Exhibit "D."	
Copy of said Contract attached marked Exhibit "E."	
Note of Fidelity Lumber Co. dated October 24, 1914,	
#4. Due April 24, 1915. Interest 8% per annum, payable annually from October 24, 1914. Copy of note attached hereto marked Exhibit "F."	
Amount due August 1, 1915.....	1804.65
Note of Fidelity Lumber Co. dated December 2, 1911,	
#5. Due August 1, 1912. Interest 6% payable annually from August 1, 1911. Copy of note attached hereto marked Exhibit "G." Amount due August 1, 1915 .....	302.76
Interest on loan of \$1700.00 from April 24, 1914, to October 24, 1914, at 8% interest .....	68.90

#6. Interest on said interest item since October 24, 1914 .....	2.10
	<hr/>
Total amount, \$	9367.41
163 shares common stock....	16300.00
	<hr/>
	\$25667.41

State of Iowa,  
Pocahontas County,—ss.

M. Hakes, being first duly sworn, on oath deposes and says: That the foregoing account is a true and correct statement of the account due and owing from the Fidelity Lumber Company to the said M. Hakes, and that there are no offsets or counter claims of any kind, character or description that have not been credited or offset against said account.

Dated at Laurens, Iowa, this 28 day of August, 1915.

M. HAKES.

Subscribed and sworn to before me this 28 day of August, 1915.

[Seal] A. D. CLAUSSEN,  
Notary Public in and for State of Iowa, Residing at  
Laurens, Iowa,

EXHIBIT "A."

Incorporated Under the Laws of the State of  
Washington.

No. 169.

40 Shares.

PREFERRED CERTIFICATE OF STOCK

of

FIDELITY LUMBER CO.

Capital Stock \$1,000,000.00.

This Certifies that M. Hakes is the owner of 40 shares of the Preferred Stock of the FIDELITY LUMBER CO., of the par value of One Hundred Dollars per share, transferrable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate of stock is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, however, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted

at a stockholders' meeting held January 5th, 1909.

In Witness Whereof, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation, at Spokane, Washington, this 2 day of December, 1911.

B. L. WILLIS,  
President.  
Secretary.

[Seal]

A. J. WILSON,  
Shares \$100 Each.

EXHIBIT "B."

No. 28.

10 Shares.

Incorporated Under the Laws of the State of  
Washington.

PREFERRED CERTIFICATE OF STOCK  
of

FIDELITY LUMBER CO.

Capital Stock \$1,000,000.00.

This Certifies that M. Hakes is the owner of 10 shares of the Preferred Stock of the FIDELITY LUMBER CO., of the par value of One Hundred Dollars per share, transferable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate of stock is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, however, to



retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

In Witness Whereof, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation, at Spokane, Washington, this 1st day of July, 1909.

B. L. WILLIS,  
President.

A. J. WILSON,  
Secretary.

[Seal]

Shares \$100 Each.

EXHIBIT "C."

Spokane, Washington.

By this SPECIAL AGREEMENT, made this first day of July, 1909, the Fidelity Lumber Company of Spokane, Washington, does hereby agree to redeem on the first day of December, 1913, Preferred Certificates of Stock dated July 1st, 1909, being certificate No. 28 for 10 shares, by paying the par value of

same to holder together with all unpaid accrued interest; the surrender of said Certificate with this special contract to be made to the Company at the time payment is received. But the holder of said Certificate may at his option retain the same and receive all benefits, until maturity, by surrendering this special contract to the Company for cancellation.

FIDELITY LUMBER COMPANY.

By B. L. WILLIS,

President.

EXHIBIT "D."

No. 29

7 Shares.

Incorporated Under the Laws of the State of  
Washington.

PREFERRED CERTIFICATE OF STOCK  
of

FIDELITY LUMBER CO.

Capital Stock \$1,000,000.00.

This Certifies that M. Hakes is the owner of 7 shares of the Preferred Stock of the FIDELITY LUMBER CO., of the par value of One Hundred Dollars per share, transferable only on the books of the Corporation by the holder hereof in person or by attorney, upon the surrender of this certificate of stock properly endorsed.

The owner of this certificate of stock is entitled to interest on the par value thereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July of each year. The Fidelity Lumber Co. reserves the right, how-

ever, to retire this certificate of stock, or any part thereof, at any time after five years and prior to ten years from date of issuance hereof, by paying the holder hereof the par value of this certificate or such part thereof as is retired, together with accrued interest on the part so retired, and a premium of five per cent thereof, and said Company also reserves the right to retire this certificate or any part thereof at any time after ten years from date of issuance, by paying to the owner hereof the par value of the part so retired, together with accrued interest thereon. This stock is issued pursuant to resolution adopted at a stockholders' meeting held January 5th, 1909.

In Witness Whereof, the said Corporation has caused this certificate of stock to be signed by its duly authorized officers, and to be sealed with the seal of the Corporation, at Spokane, Washington, this 1st day of July, 1909.

B. L. WILLIS,  
President.

[Seal]

A. J. WILSON,  
Secretary.

Shares \$100 Each.

EXHIBIT "E."

Spokane, Washington.

By this SPECIAL AGREEMENT, made this first day of July, 1909, the Fidelity Lumber Company of Spokane, Washington, does hereby agree to redeem on the first day of December, 1913, Preferred Certificates of Stock dated July 1st, 1909, being Certificate No. 29 for 7 shares, by paying the par value of

same to the holder together with all unpaid accrued interest; the surrender of said Certificate with this special contract to be made to the Company at the time payment is received. But the holder of said Certificate may at his option retain the same and receive all benefits, until maturity, by surrendering this special contract to the Company for cancellation.

FIDELITY LUMBER COMPANY.

By B. L. WILLIS,  
President.

EXHIBIT "F."

\$1700.00 Newport, Washington, Oct. 24, 1914.

Six Months after date for value received we promise to pay to the order of M. Hakes at his office in Laurens, Iowa, Seventeen Hundred and no/100 Dollars with interest, at the rate of eight per cent per annum payable annually from date until paid with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS, President.

No. 1403. Due April 24, 1915.

30960

EXHIBIT "G."

\$240.00 Newport, Washington, Dec. 2, 1911.

August 1st after date for value received, we promise to pay to the order of M. Hakes, at Spokane, Wash. Two Hundred Forty and no/100 Dollars, with interest at the rate of six per cent per annum pay-

able annually from August 1, 1911, until paid with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY,

By B. L. WILLIS, President.

No. 819. Due Aug. 1, 1912.

**Exhibit—Proof of Claim of Scandinavian-American Bank of Spokane.**

[Endorsed]: No. 3009. U. S. Circuit Court of Appeals for the Ninth Circuit. Exhibit—Proof of Claim of Scandinavian-Amer. Bank of Spokane. Filed June 9, 1917. F. D. Monckton, Clerk.

PROOF OF CLAIM.

(Attach Itemized Statement.)

FIDELITY LUMBER COMPANY, DR.

Newport, Washington.

To Scandinavian-American Bank of Spokane, Washington, a Corporation.

For note of \$5,000.00, dated July 1st, 1914, our number 8786.

Total amount, \$———.

State of Washington,

County of Spokane,—ss.

O. Larson, being first duly sworn, on oath deposes and says: That he is the cashier of Scandinavian-American Bank, a corporation, and as such officer makes this affidavit for and on its behalf and states: That the foregoing account is a true and correct statement of the account due and owing from the Fidelity Lumber Company to the said Scandinavian-

American Bank, and that there are no offsets or counterclaims of any kind, character or description that have not been credited or offset against said account.

Dated at Spokane, Wash., this 30th day of June, 1915.

O. LARSON,  
Cashier.

Subscribed and sworn to before me this 30th day of June, 1915.

[Seal] CLYDE JOHNSON,  
Notary Public in and for State of Washington, Re-  
siding at Spokane, Wash.

Not allowed.

C. Ck. 10/21/16.

\$5000.00 Newport, Washington, July 1, 1915.

Ninety days after date for value received, we promise to pay to the order of

SCANDINAVIAN-AMERICAN BANK.

At its Office in Spokane, Washington

Five thousand & no/100 Dollars with interest at the rate of 8 per cent per annum payable annually from date until paid, with reasonable attorney fees and statutory costs, if necessary for collection, waiving presentment, demand, protest and notice thereof.

FIDELITY LUMBER COMPANY.

(Signed) By B. F. MILLER,

President.

No. 8786. Due Sept. 29, 1914.

[Endorsed]: Oct. 2, 1914. Int. to Mat. 100/00.  
Received Jul. 30, 1915.

UNION TRUST & SAVINGS BANK,  
Receiver Fidelity Lumber Co.

